



Date:

March 6, 2012

Agenda Item No. 1F4

To:

Honorable Joe A. Martinez, Chairman

and Members, Board of County Commissioners

From:

Carlos A. Gimenez

Mayor

Subject:

Sunset Review of County Boards for 2012 - Unsafe Structures Board

In accordance with the provisions of Section 2-11.40 of the Code of Miami-Dade County, I am transmitting the 2012 Sunset Review of County Boards Report for the Unsafe Structures Board. The Board approved the attached report at its meeting of November 9, 2011 and has recommended the continuation of its board.

Deputy Mayor

mayor04912

Date:

November 9th, 2011

To:

Carlos A. Gimenez

Mayor

From:

James Cueva

Chairperson, Unsafe Structures Board

Subject:

Sunset Review of County Boards for 2012 - Unsafe Structures Board

Pursuant to Section 2-11.40 of the Code of Miami-Dade County, I am submitting the 2012 Sunset Review of County Boards Report for the Unsafe Structures Board for transmittal to the Board of County Commissioners (BCC). The Board approved the attached report at its meeting of November 9<sup>th</sup> 2011.

It is recommended that the BCC approve the continuation of the Unsafe Structures Board.

### BACKGROUND

The Unsafe Structures Board was established in 1965 through Ordinance 65-28. The Board ensures the safety of building structures through review of the decision of Building Officials regarding the safety of structures and hearing interested parties appeals on these matters. The Unsafe Structures Board should continue to function to serve the community through conducting a fair and open public hearing process, where testimony is heard and evidence reviewed to make determinations that serve to safeguard the community.

James Cueva

Board Chairperson

# SUNSET REVIEW QUESTIONNAIRE MIAMI-DADE COUNTY BOARDS 2012

### I. GENERAL INFORMATION

## 1. Name of Board Reporting:

UNSAFE STRUCTURES BOARD

# 2. Indicate number of board members, terms of office, and number of vacancies:

The Unsafe Structures Board consists of 13 members who are appointed by the Board of County Commissioners of Miami Dade County, Florida.

For terms of office and number of vacancies, Refer to Appendix "A".

# 3. <u>Identify number of meetings and member's attendance (Activity from Jan. 1, 2010 through December 31, 2011):</u>

Twenty-two (22) meetings were held during 2010 through December 31, 2011. Quorum was obtained for 22 of the meetings held in 2010 and 2011.

Refer to Appendix "B" for the Board attendance report.

# 4. What is the source of your funding?

The Unsafe Structures Board receives its funding through the Board fees collected from the various municipalities who present formal cases.

# 5. Date of Board Creation:

The Unsafe Structures Board was created in 1965 through Ordinance 65-28.

# 6. Attach a copy of the ordinance creating the board.

Refer to Appendix "C" for Ordinance 65-28 and amended recently through Ordinance 09-56.

# 7. Include the Board's Mission Statement or state its purpose.

The Unsafe Structures Board ensures the safety of buildings and structures through conducting a fair and open public hearing process, where testimony is heard and evidence reviewed to make a determination that serves to safeguard the community.

# 8. Attach the Board's standard operating procedures, if any.

The Unsafe Structures Board shall be governed by "Roberts Rules and Order" in all instances and cases to which they are applicable.

Refer to Appendix "D" for the Board's standard operating procedures based on the provisions of Chapter 8-5.

# 9. Attach a copy of the Board's by-laws, if any.

The Unsafe Structures Board is governed by the authority outlined in Chapter 8 of the Code of Miami-Dade County as provided in Appendix "D".

# 10. Attach a copy of the Board minutes approving the Sunset Review.

Refer to Appendix "E" for the minutes approving the Sunset Review report.

## II. EVALUATION CRITERIA

# 1. Is the Board serving the purpose for which it was created?

Yes, the Unsafe Structures Board has met monthly to review the decision of Building Officials regarding the safety of structures and hear interested party appeals on these matters. The members met at least once every month over the past two years. It is the opinion of the members of the Unsafe Structures Board that the board has continued to fulfill its duties as defined in Chapter 8 of the Code of Miami-Dade.

# Is the board serving current community needs?

Yes, the work of the Unsafe Structures Board has been performed with the full participation of various municipalities and the general public. The process has been a total participatory effort in which all interested parties have been notified and have been active in the decision-making process regarding structure compliance. It is the opinion of the members of the Unsafe Structure Board that the needs of our community have been well served.

# 3. What are the Board's major accomplishments? a)Last 24 months b)Since established

(a) The Unsafe Structures Board ordered the **demolition** of **83** structures and the **repair** of **181** properties during the year 2010 and ordered the **demolition** of **123** structures and the **repair** of **272** properties during the year 2011.

Refer to Appendix "F" for a recap of the Board's activity in these areas.

(b) Continued to provide process for safer buildings and structures for the community.

# 4. Is there any other board, either public or private which would better serve the function of the board?

There is no other public or private board, which would better serve the function of the Unsafe Structures Board because this Board provides a forum for persons to appeal to a body comprised of volunteers in various disciplines selected from the general public and appointed by the Board of County Commissioners.

# 5. Should the ordinance creating the board be amended to better enable the board to serve the purpose for which it was created?

No, the Unsafe Structures Board should remain as an independent board to better serve the interest of the Commission and public at large.

# 6. Should the board's membership requirements be modified?

The board's membership composition is properly balanced for its present duties.

However, the nomination of new members should be done diligently, whenever there are vacancies, in order to maintain the effectiveness of the Board. There are currently two vacancies in the category of Registered Architect and General Public.

# 7. What is the operating cost of the board, both direct and indirect.

Direct and indirect cost for the Committee fiscal year 2010 was approximately \$65,905 and \$62,677 respectively. The direct and indirect cost for fiscal year 2011 was approximately \$97,567 and \$46,851 respectively.

# 8. <u>Describe board's performance measures developed to determine its own effectiveness in achieving its stated goals.</u>

The Unsafe Structures Board has been addressing efficiently and rapidly all issued related to unsafe structures in Miami Dade. The Board has been operating in full compliance within the authority outlined in Chapter 8 of the Code of Miami-Dade County.

The Unsafe Structures Board measures its effectiveness by the number of structures or cases reviewed and ordered repaired or demolished. Over the past two years, the board has considered over 806 cases for action which represents an increase of 304 cases over the immediate prior Sunset Review Report period. Refer to Exhibit "F".

# APPOINTMENTS MIAMI-DADE COUNTY UNSAFE STRUCTURES BOARD

Members	Category	Commissioner	Term/Expiration *
1. Amedee, Emile P.	General Public	Edmondson (District 2)	(3) 07/17/2011
2. Cueva, James A.	General Public	Suarez (District 7)	(3) 11/30/2012
3. Deeb, Kevin	Real Estate Appraiser	Sosa (District 6)	(3) 01/31/2011
4. Escandell, Jose P.	Real Estate Property Manager	Bovo (District 13)	(3) 11/30/2012
5. Essein, Benjamin S.	General Public	Jordan (District 1)	(3) 11/30/2008
6. Loader, Gordon B	Plumbing Contractor	Barreiro (District 5)	(3) 07/10/2009
7. Naumann, Carlos	Registered Engineer	Moss (District 9)	(3) 11/30/2012
8. Ramirez, Abel	General Building Contractor	Diaz (District 12)	(3) 11/30/2010
9. Starkweather, James	Electrical Contractor	Martinez (District 11)	(3) 12/02/2008
10. Sweeney, Robert E.	Social Services	Bell (District 8)	(3) 11/30/2010
11. Riley, Aymara D.	Attorney at Large	Heyman (District 4)	(3) 11/30/2010

# Vacancies

Members	Category	Commissioner
Vacant	Registered Architect	Monestime (District 2)
Incumbent Member		
Woodard, Harland	•	
(Resigned)		
Vacant	General Public	Souto (District 10)
Incumbent Member		
Vera, Jose		
(Deceased)		

<sup>\*</sup> Members continue to serve past term expiration until reappointment or new member appointment.

# 2010 Unsafe Structures Board Members Attendance and Meeting Dates

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Board Member	Amedee, Emile	Cueva, James	Deeb, Kevin	Escandell, Jose	Essein, Benjamin	Loader, Gordon	Naumann, Carlos	Ramirez, Abel	Riley, Aymara	Starkweather, James	Sweeney, Robert	Vera, Jose

Legend:

A - AbsentE - ExcusedP - PresentR - Resigned

NM - Not serving at the time

# 2011 Unsafe Structures Board Members Attendance Meeting Dates

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Board Member	Amedee, Emile	Cueva, James	Deeb, Kevin	Escandell, Jose	Essein, Benjamin	Loader, Gordon	Naumann, Carlos	Ramirez, Abel	Riley, Aymara	Starkweather, James	Sweeney, Robert	Vera, Jose

Legend:

A - Absent E - Excused

P - Present
R - Resigned
T - Terminated
NM - Not a Member

**15 - 13** 

Agenda Item No. 2**(4)** 4-5-65

building and other prescribed therefor, and make the necessary inspections which such numericality, including the inspection and procedures necessary for appeals to the Uniate Structures and Housing Appeals Board as provided in Chapter 2 of the South Florida Bollding Code, and including, but not limited to, the action and procedure necessary to carry out the orders of such Board.

Section 3. Chapter 8 of the Code of Metropolitan Dade County,

Florida, is hereby amended by adding at the end an additional section
to read as follows:

Sec. 9-5.

The Unsafe Structures and Housing Appeals Scard and the Board of Rules and Appeals shall exercise county-wide the powers respectively granted to them by the South Florida Building Code and shall have exclusive jurisdiction in both the incorporated and unincorporated aveas of Dade County in respect to their respective powers, duties and functions prescribed in the said Code, and that the Director of the Building and Loning Department of the County shall be the Secretary of each of said Boards.

Section 4. It is the intent of the County Commission and it is hereby ordinal that the provisions of this amendment shall be made a part of the Code of Metropolitan Bade County, Florida, and the sections may be rangembared and relationed, if necessary, to accomplish such intention.

Section 5. The provisions of this ordinance shall become effective ten (10) days after the date of its enactment.

Passéd and adopted: 🤼

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Apenda Rem No. 3407

# ORDINANCE NO.

ORDINANCE AMENDING SECTION 8-2 AND SECTION 8-4 OF THE CODE OF METRO-POLITAN DADE COUNTY, FLORIDA, AND ADDING AT THE END OF CHAPTER 8 OF SAID CODE A NEW SECTION TO CLARIFY THE INTENT OF SECTIONS 8-2 AND 8-4 AND TO GIVE COUNTY-WIDE AUTHORITY UNTO THE URBAFE STRUCTURES AND HOUSING APPEALS BOARD AND THE BOARD OF RULES AND APPEALS, ARD THAT THE DEPARTMENT SHALL BE THE SECRETARY OF SUCH BOARDS; MAKING THE SAME A PART OF THE SAID CODE AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF GOUNTY COMMISSIONERS OF DADE COUNTY, FLORIDA:

Section 1. Section 8-2 of the Code of Metropolitan Dade County, Florids, is hereby smended to read as follows:

Any reference in the building code to the "building official" in its application to the unincorporated areas of Dade County shall mean the "director of the building and soning department" or his designes, and any reference in the building code to "appointing authority" or "legislative authority" in its application to the unincorporated areas of Dade County shall mean the "county commission."

Section 2. Section 8-4 of the Gods of Metropolitan Dada County, Plorida, is hereby amended to read as follows:

The South Florida Building Code shall be applicable in both the incorporated and unincorporated areas of the county. In the unincorporated areas of the county, the building and soning department shall enforce this Code, issue all building and other permits required by such Gode, collect the fees prescribed therefor, and make the necessary inspections. In the im orporated areas of the county, each municipality, through its duty appointed Building Official, by whatever name he hadesignated, shall enforce this Code, Issue all

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Approved	 <u>Mayor</u>		Agenda Item No.	7(F)
Veto		•	6-30-09	
Override	 			
0,011100	 •			
-	ORDINANCE NO.	09-56		

ORDINANCE PROVIDING FOR EXTENSIONS OF TIME TO PERIODS FOR COMPLIANCE SET FORTH IN ORDERS OF THE UNSAFE STRUCTURES BOARD OR APPEAL PANEL; ESTABLISHING PROCEDURE; CREATING STANDARDS FOR GRANTING EXTENSIONS; ESTABLISHING LIMITATIONS; PROVIDING THAT APPELLATE REVIEW SHALL REMAIN UNAFFECTED NOT WITHSTANDING REQUEST FOR EXTENSION OF TIME; AMENDING CHAPTER 8 OF THE CODE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. Chapter 8 of the Code of Miami-Dade County is hereby amended as follows:

Chapter 8
Building Code

Art. I. Administration

Sec. 8-5. Unsafe Structures

>>(m) Requests for Extensions of Time.

Any owner or authorized representative may seek an extension of the timeframes set forth in an Order of the Unsafe Structures Board or an Unsafe Structures Appeal Panel. Such request for a hearing to seek such extension must be in writing, directed to the Secretary of the Unsafe Structures Board or Appeal Panel (whichever body

Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

issued the order for which an extension is being sought). The Board or Appeal Panel shall not be authorized to extend any deadline for compliance, set forth in the order, unless the Secretary of the Board receives the written request for extension prior to the deadline specified in the initial order. >>For example, in the event the Board Order states that a permit must be obtained within a specified period, the request for extension of the deadline to obtain the permit must be received prior to the expiration of that specified period. If the same order provides a deadline for completion of the structure, the request for the extension for the deadline of completion must be received prior the deadline for completion, provided that the applicant has complied with the permit deadline.<<2 In no event may the Board or Appeal Panel grant more than one extension of time for each initial order.

To obtain an extension, the owner or applicant must demonstrate to the reasonable satisfaction of the Board or Appeal Panel that the structure that is the subject of the order is secure at the time the extension is sought and that the owner or applicant has made a good faith attempt to comply with the order which has been impeded by changed circumstances or other circumstances outside of the owner or applicant's control. As a further condition of the extension, the owner or applicant must submit in writing, together with the petition for an extension, a written time timetable for compliance with the substantive provisions of the Order and for completion of all necessary repairs. The Board or Appeal Panel shall not reconsider the order, limiting its consideration of the petition to deciding whether the grounds for an extension have been satisfied in the manner set forth in this subsection.<

[[m]]>>(n)<< Judicial Review.

Any owner or authorized representative aggrieved by a decision of the Unsafe Structures Board or an Unsafe Structures Appeal Panel may seek judicial review of that decision in accordance with Rule 9.110 (c) of the Florida Rules of Appellate Procedure. Accordingly, any order, requirement, decision, denial of a request for extension of time, or determination of the Unsafe Structures Board of an Unsafe Structures Appeal Panel shall be reviewed by the filing of a notice of appeal in the Circuit Court Appellate Division of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, within thirty (30) days of rendition of the order.

Committee substitute are indicated as follows: words within double brackets and double strike-through are deleted, words within double arrows and double underlining are added.



Ordinance No. 09-56 Agenda Item No. 7(F) Page 3

This thirty (30) day time frame commences to run from the date that the Board's or Appeal Panel's order, requirement, decision or determination sought to be reviewed is transmitted to the Secretary >> and such timeframe shall not be tolled or otherwise affected by any request for extension of time for compliance set forth in Subsection (m) above.<< The Secretary or the Director of the Miami-Dade County Building Department shall affix to each order, requirement, decision or determination is transmitted. Moreover, the Secretary to the Board and Director of the Miami-Dade County Building Department shall comply with all requirements of the Florida Rules of Appellate Procedure.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any Sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate work.

Section 4. This ordinance shall become effective 180 days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED: June 30, 2009

Approved by County Attorney as to form and legal sufficiency.

Prepared by:

Her

Hugo Benitez

Prime Sponsor:

Commissioner Dorrin D. Rolle

## Organization of the Board

The Unsafe Structure Board's general meeting is conducted under the Robert's Rules of Order and the Board may also establish procedural rules and regulations of its own. Chapter 8 Section 8-5 of the Code of Miami-Dade outlines the functions of the Unsafe Structures Board as follows:

(3) Organization of the Board:

- (i) The members of the Board shall elect a Chairman and a Vice Chairman and such other officers as may be deemed necessary or desirable, who shall serve at the will of the Board. Election of officers shall be held at the first meeting of February and such officers shall hold office for one year.
- (ii) Seven (7) members of the Board shall constitute a quorum necessary to hold a meeting or take any action.
- (iii) A majority vote of the membership present and voting at a duly constituted meeting of the Board shall be sufficient to overrule, modify or affirm any action or decision of the Building Official or to take any other action within the scope of the powers and duties of the Board.
- (iv) Members shall serve without compensation but shall be entitled to reimbursement for necessary expenses incurred in the performance of their official duties, upon approval by the appointing authority.
- (v) No member of the Board shall sit as a voting member in any hearing on a matter in which he has a personal or financial interest.
- (vi) The Director of the Miami-Dade County Building and Neighborhood Compliance Department, or his designee, shall be the Secretary of the Board but shall have no vote.
- (vii) The Chairman or the Secretary may call meetings of the Board, and meetings of the Board may be called by written notice signed by three members of the Board.
- (viii) Minutes and records shall be kept of all meetings of the Board and all meetings shall be public.
- (ix) All hearings shall be open to the public, and any person whose interest may be affected by the matter on appeal shall be given an opportunity to be heard in person, or through his attorney.
- (x) Witnesses may be sworn and subpoenaed by the Board in a like manner as they are subpoenaed by the court or courts in Miami-Dade County.
- (i) The hearings shall be informal and need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rules, which might make improper the admission of such evidence over objection in civil actions.
- (ii) Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.
- (iii) The rules of privilege shall be effective to the same extent that they are now, or hereafter may be, recognized in civil actions; and irrelevant and unduly repetitious evidence shall be excluded.
- (iv) The Board may establish rules and regulations for its own procedure.
- (v) The Secretary of the Board shall provide adequate and competent clerical and administrative personnel and such technical or scientific personnel as may be reasonably required by the Board for the proper performance of its duties, subject to budget limitations. The Secretary shall maintain a record of all proceedings, including but not limited to a court reporter's transcript of the proceeding, and may clarify the same as a true copy and make a reasonable charge therefore; provided, the court reporter shall certify the copy of his or her transcript.
- (vi) The Secretary of the Board shall provide a regular meeting place for the Board.

(4) Duties and Powers of the Board:

The Board shall have the following duties, functions, powers and responsibilities:

(i) Hear and determine appeals from actions and decisions of the Building Official pursuant to the provisions of this Section.

(ii) Hear and review the application of the Building Official for the review of his or her action where his or her decision as indicated in a Notice of Violations has not been complied with.

(iii) Affirm, modify or reverse the decision of the Building Official upon appeal or on application for review.

(iv) The Board, through its Secretary, shall transmit the record with all exhibits, instruments, papers, and transcripts of its proceedings to the appointing authority in the event that authority shall wish to consider the matter.

# UNSAFE STRUCTURES BOARD HEARING MINUTES OF November 9th, 2011

Members Present: James Cueva, Chairman

Benjamin S. Essien
Robert Sweeney
James Starkweather
Carlos Naumann
Jose Escandell
Emile Amedee
Aymara D. Riley
Abel Ramirez

Excused Absent:

Gordon Loader, VC

Kevin Deeb

Staff:

Kathy Charles, Acting Clerk of the Board Latisha Byrd, Board Recording Secretary Michael Valdes, Asst. County Attorney Annery Alfonso, Asst. County Attorney Albert Lichy, Asst. County Attorney

Court Reporter:

Fernando Subirats, APEX Reporting Group

The regular meeting of the **UNSAFE STRUCTURES BOARD** was called to order at 1:25 P.M. on Wednesday, November 9<sup>th</sup>, 2011, on the 2<sup>nd</sup> Floor, Conference Room I & J, of the Herbert Saffir Permitting & Inspection Center, Department of Permitting, Environment & Regulatory Affairs located at 11805 SW 26<sup>th</sup> Street, Miami, Florida, 33175.

Mr. James Cueva requested a motion to approve and accept the minutes of the October 19<sup>th</sup>, 2011 Unsafe Structures Board Meeting. Mr. Starkweather moved to accept the minutes of the board meeting. Mr. Essien seconded the motion.

### Motion passed unanimously.

(For a verbatim version, please refer to the transcripts)

### **Sunset Review Report**

Mr. Cueva requested a motion to approve and accept the 2010-2011 Sunset Review of the Miami Dade County Unsafe Structures Board with the additional budget information to be added to the Sunset Review Report as indicated by the Chair in reference to question #7. Mr. Essien moved to approve the Sunset Review Report with the inclusion of the budget. Ms. Riley seconded the motion.

### Motion passed unanimously.

(For a verbatim version, please refer to the transcripts)

# 2010 ANNUAL REPORT OF BOARD DECISIONS RENDERED BY THE UNSAFE STRUCTURES BOARD

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12/8/		3	14		2	19
11/10/10		14	30	Ţ	9 .	51
10/13/10		15	14	3	4	36
9/15/10	-,	11	17	9	19	53
August	•		Recess	•		
07/21/10		7	16	2	8	33
06/16/10		11	14			25
01/20/10 02/17/10 03/17/10 04/21/10 05/19/10 06/16/10 07/21/10 August 9/15/10 10/13/10 11/10/10 12/8/10		5	6	9	3	23
04/21/10		12	16	3		31
03/17/10		0	17		3	20
02/17/10		,4	13		2	16
01/20/10		4	21			25
ACTIVITY	Decisions Rendered:	DEMOLISH	REPAIR	DEFERRED	WITHDRAWN	Total Cases per month 25

# 2011 ANNUAL REPORT OF BOARD DECISIONS RENDERED BY THE UNSAFE STRUCTURES BOARD

	11/61/1	01/19/11 02/16/11	05/16/11	04/20/11	05/16/11 04/20/11 05/18/11 06/15/11 07/20/11 8/17/11 9/21/11	06/15/11	07/20/11	8/1//11	7/77/11	10/19/11	TOTAL
Decisions Rendered:											
DEMOLISH	7	7	2	5		15	61	4	70	9	123
REPAIR	33	17	13	28	22	99	37	21	13	32	272
DEFERRED	13			ന്				<b>,</b> , ,	3	1-1-1	23
WITHDRAWN								2		5	7
Total Cases per month 48	48	24	16	36	24	7.1	86	28	36	44	425