

MEMORANDUM

Agenda Item No. 7(H)

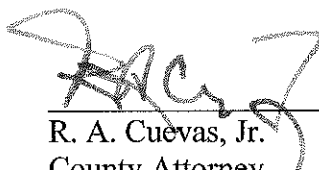
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: (Second Reading 7-3-12)
May 15, 2012

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance regarding lease of
County property; amending
Sec. 2-8.6.5 of the Code, to
require criminal background
checks of certain proposed
tenants of County property and
disclosure of adverse results to
Board

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Senator Javier D. Souto and Co-Sponsor Rebeca Sosa.



R. A. Cuevas, Jr.
County Attorney


RAC/jls

Memorandum



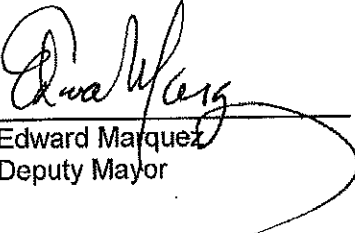
Date: July 3, 2012

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Ordinance regarding the lease of County owned property

The proposed ordinance requires criminal background checks of certain proposed tenants of County property, prior to entering into an agreement. The cost of the criminal background checks performed by the County will be the responsibility of the proposed tenants. The implementation of this ordinance will not have a fiscal impact to the County.


Edward Marquez
Deputy Mayor

Fis6412



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: July 3, 2012

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 7(H)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(H)
7-3-12

ORDINANCE NO. _____

ORDINANCE REGARDING LEASE OF COUNTY PROPERTY;
AMENDING SECTION 2-8.6.5 OF THE CODE OF MIAMI-
DADE COUNTY, FLORIDA, TO REQUIRE CRIMINAL
BACKGROUND CHECKS OF CERTAIN PROPOSED
TENANTS OF COUNTY PROPERTY AND DISCLOSURE OF
ADVERSE RESULTS TO BOARD, INCLUSION IN THE
CODE, AND AN EFFECTIVE DATE

WHEREAS, Miami-Dade County routinely leases County-owned property to private entities; and

WHEREAS, some of these private entities operate facilities and provide programs and services for children and/or developmentally disabled individuals on the County-owned property that they lease; and

WHEREAS, children and developmentally disabled persons are more vulnerable to abuse, neglect and mistreatment; and

WHEREAS, it is in the best interest of Miami-Dade County to only lease property to tenants that are responsible, especially when those tenants are going to be operating programs and providing services to children and developmentally disabled individuals,

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

Section 1. Section 2-8.6.5 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

¹ 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.

CHAPTER 2. ADMINISTRATION

ARTICLE I. IN GENERAL

* * *

Sec. 2-8.6.5. – ~~[[+]]~~ Purchase, sale, lease of real property. ~~[[+]]~~

>>(1) Definitions. As used in this section:

- (a) The term *Principal* means an owner, officer, or director. By exception, the term *Principal* shall not include the shareholders of a publicly traded corporation.
- (b) The term *Tenant* means an individual, corporation, partnership, joint venture, or other legal entity, including both for-profit and not-for-profit entities.

(2) Documenting ownership interest.<<

- (a) Prior to the County's entering into any contract, agreement or lease relating to the purchase, sale or leasing of real property by, to or from the County, all individuals, corporations, partnerships, joint ventures or other legal entities having any interest of any kind in the property to be purchased, sold or leased, shall file with the County a document identifying the extent of its ownership interest in the subject real property.
- (b) Failure by any party to comply with the requirements of subsection >>(2)<<(a) hereof shall render the entire agreement to purchase, sale or lease voidable.

>>(3) Criminal background checks of certain proposed Tenants.

- (a) Prior to the County entering into a non-residential lease of County-owned property with a proposed Tenant where the property is to be used by the proposed Tenant as a facility for, or to provide programs and services to, children and/or developmentally disabled individuals, the County Mayor or Mayor's designee shall perform a national criminal background check of the proposed Tenant, of its Principals, and of any spouses, parents and children of the proposed Tenant and its Principals that will be working at the non-residential County-owned property to be leased. The cost of the criminal background check(s) performed by the County shall be the responsibility of the proposed Tenant and payment for the cost of the criminal background

check(s) shall be made by the proposed Tenant to Miami-Dade County prior to the County incurring the cost thereof.

(b) Together with any recommendation to approve a non-residential lease of County-owned property to be used as a facility for, or to provide programs and services to, children and/or developmentally disabled individuals, the County Mayor shall report to the Board of County Commissioners any instance where the criminal background check required by subsection (3)(a) hereof revealed information which may adversely affect a finding of Tenant responsibility.<<

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 part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) 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:

Approved by County Attorney as JAC
to form and legal sufficiency:

Monica Rizo MR

Prime Sponsor: Senator Javier D. Souto
Co-Sponsor: Commissioner Rebeca Sosa