

MEMORANDUM

Agenda Item No. 11(A)(17)

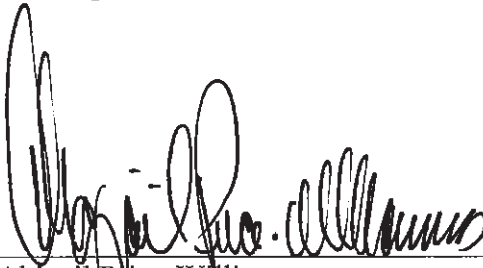
TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: March 7, 2017

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution urging the Florida
Legislature to strengthen
condominium association laws to
prevent fraud and malfeasance
and to allocate additional funding
and powers to the Florida
Department of Business and
Professional Regulation related
to condominium associations

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Bruno A. Barreiro.



Abigail Price-Williams
County Attorney

APW/cp



MEMORANDUM
(Revised)

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and Members, Board of County Commissioners

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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
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor'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. 11(A)(17)
3-7-17

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE TO
STRENGTHEN CONDOMINIUM ASSOCIATION LAWS TO
PREVENT FRAUD AND MALFEASANCE AND TO
ALLOCATE ADDITIONAL FUNDING AND POWERS TO THE
FLORIDA DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION RELATED TO
CONDOMINIUM ASSOCIATIONS

WHEREAS, condominium fraud is an increasingly prevalent form of crime in today's society, and a rapidly rising problem in Miami-Dade County, causing a significant impact on the public welfare; and

WHEREAS, reports of such systemic condominium fraud in South Florida have included falsification of voter signatures, electoral fraud, and fraudulent contract awards; and

WHEREAS, this criminal activity has risen to the level of creating a threat to the welfare of all residents, affecting the social and economic quality of life of County residents and individuals throughout South Florida; and

WHEREAS, law enforcement agencies are currently restricted in the manner and means by which they can access financial, election, and other records of a condominium association, whether stored at the condominium or a condominium management company, namely limited to consent, subpoena, or search warrant; and

WHEREAS, law enforcement agencies are currently restricted with respect to certain methods of prosecution regarding forgery or uttering a forged instrument because election ballots for condominium board electors are not specifically identified within the applicable statutes, Sections 831.01 and 831.02, Florida Statutes; and

WHEREAS, increased access to condominium associations' financial records would enable law enforcement agencies to more timely and effectively investigate allegations raised by association members; and

WHEREAS, in addition to increasing criminal activity, other improprieties such as irregular bid processes, conflicts of interest, and financial malfeasance are increasingly prevalent, thereby jeopardizing the financial health and security of condominium associations, and diminishing the confidence of the condominium members and prospective buyers; and

WHEREAS, state legislation is required in order to strengthen the rights of condominium owners, increase penalties for condominium fraud, and to provide additional means to more effectively prevent, combat and eliminate condominium association fraud, including the expansion of criminal statutes; and

WHEREAS, Senator Gary M. Farmer, Jr. (D – Fort Lauderdale) and Representative Joseph Geller (D – Dania Beach) have filed legislation for consideration during the 2017 session to reform state law governing condominium complexes to combat condominium fraud; and

WHEREAS, it is anticipated that Senator Rene Garcia (R – Hialeah), Senator Jose Javier Rodriguez (D - Miami), and Representative Jose Felix Diaz (R – Miami), who is currently chair of the Miami-Dade State Legislative Delegation, will file such legislation as well; and

WHEREAS, this Board would like to encourage and support such legislation to protect the economic and social welfare of the residents in Miami-Dade County; and

WHEREAS, the Division of Florida Condominiums, Timeshares, and Mobile Homes within the Florida Department of Business and Professional Regulation (“DBPR”) is the entity responsible for enforcing the provisions of Chapter 718, Florida Statutes, relating to condominiums, and in particular, condominium board of director election irregularities; and

WHEREAS, providing additional funding to DBPR would increase the Department's ability to adequately address, monitor, and enforce such provisions; and

WHEREAS, the Board desires to urge the Florida Legislature to allocate funding to DBPR to increase its manpower and resources in its efforts to prevent and minimize and condominium fraud, and to increase the scope of the DBPR's powers,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Urges the Florida Legislature to strengthen laws against condominium association fraud by strengthening the rights of condominium owners and providing additional means to more effectively prevent, combat and eliminate condominium association fraud, such as increased penalties, stricter reporting requirements, expansion of criminal statutes such as forgery, and providing a means for law enforcement agencies to access and inspect the books and records of condominium associations, whether stored at the condominium or management company offices, upon request and without requirement of consent, subpoena or search warrant.

Section 2. Urges the Florida Legislature to allocate additional funding to DBPR and to expand the scope of the agency's powers, such as supervision over condominium management companies.

Section 3. Directs the Clerk of the Board to transmit a certified copy of this resolution to the Governor, Senate President, House Speaker, Senator Gary M. Farmer, Jr, Senator Rene Garcia, Senator Jose Javier Rodriguez, Representative Jose Felix Diaz, Representative Joseph Geller, and the remaining Members of the Miami-Dade County State Legislative Delegation.

Section 4. Directs the County's state lobbyists to advocate for the passage of the legislation set forth herein or similar legislation, and authorizes and directs the Office of Intergovernmental Affairs to amend the 2017 State Legislative Package to include this item.

The Prime Sponsor of the foregoing resolution is Commissioner Bruno A. Barreiro. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

- | | |
|-------------------------------------|----------------------|
| Esteban L. Bovo, Jr., Chairman | |
| Audrey M. Edmonson, Vice Chairwoman | |
| Bruno A. Barreiro | Daniella Levine Cava |
| Jose "Pepe" Diaz | Sally A. Heyman |
| Barbara J. Jordan | Joe A. Martinez |
| Jean Monestime | Dennis C. Moss |
| Rebeca Sosa | Sen. Javier D. Souto |
| Xavier L. Suarez | |

The Chairperson thereupon declared the resolution duly passed and adopted this 7th day of March, 2017. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Debra Herman
David Sherman