

MEMORANDUM

Agenda Item No. 11(A)(1)

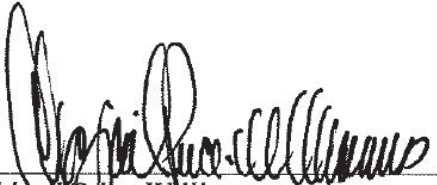
TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: May 19, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution directing the County Mayor to ensure that the County does not consider, authorize or approve rent increases within any development funded through one or more of the County's Affordable Housing Programs, during the term of any declarations of emergency issued by the Governor or the County Mayor because of a pandemic, such as coronavirus disease 2019 (COVID-19), or other emergency and for 30 days thereafter; creating an exception; and directing the County Mayor to investigate and provide a written report regarding whether any owner of a development funded through one or more of the County's Affordable Housing Programs has increased rent during the declaration of emergency

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Esteban L. Bovo, Jr.


Abigail Price-Williams
County Attorney

APW/lmp



MEMORANDUM
(Revised)

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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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) 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)(1)
5-19-20

RESOLUTION NO. _____

RESOLUTION DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO ENSURE THAT THE COUNTY DOES NOT CONSIDER, AUTHORIZE OR APPROVE RENT INCREASES WITHIN ANY DEVELOPMENT FUNDED THROUGH ONE OR MORE OF THE COUNTY'S AFFORDABLE HOUSING PROGRAMS, DURING THE TERM OF ANY DECLARATIONS OF EMERGENCY ISSUED BY THE GOVERNOR OR THE COUNTY MAYOR BECAUSE OF A PANDEMIC, SUCH AS CORONAVIRUS DISEASE 2019 (COVID-19), OR OTHER EMERGENCY AND FOR 30 DAYS THEREAFTER; CREATING AN EXCEPTION; AND DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO INVESTIGATE AND PROVIDE A WRITTEN REPORT REGARDING WHETHER ANY OWNER OF A DEVELOPMENT FUNDED THROUGH ONE OR MORE OF THE COUNTY'S AFFORDABLE HOUSING PROGRAMS HAS INCREASED RENT DURING THE DECLARATION OF EMERGENCY

WHEREAS, coronavirus disease 2019 (COVID-19) is a severe acute respiratory illness that can spread among humans through respiratory transmission and presents with symptoms similar to those of influenza; and

WHEREAS, on March 1, 2020, the Governor of Florida issued an executive order directing the State Health Officer and Surgeon General to declare a Public Health Emergency due to the discovery of COVID-19 in Florida; and

WHEREAS, also on March 1, 2020, the State Surgeon General and State Health Officer declared a Public Health Emergency exists in the State of Florida as a result of COVID-19; and

WHEREAS, on March 9, 2020, the Governor issued Executive Order 20-52 declaring a state of emergency for the entire State of Florida as a result of COVID-19; and

WHEREAS, on March 12, 2020, the County Mayor declared a State of Emergency for all of Miami-Dade County; and

WHEREAS, as result of these declarations and the emergency and mandatory closures of non-essential businesses in Miami-Dade County, thousands of workers in Miami-Dade County and throughout this state have been laid off, furloughed, or left with severely reduced work hours; and

WHEREAS, as result, many of Florida's residents and families are struggling to make ends meet, and are unable to pay for basic necessities such as rent and food; and

WHEREAS, on April 2, 2020, the Governor issued Executive Order 20-94, which, in part, suspends and tolls "any statute providing for an eviction cause of action under Florida law solely as it relates to non-payment of rent by residential tenants due to the COVID-19 emergency for 45 days from the date of the executive order, including any extensions"; and

WHEREAS, similarly, many states, counties, and cities, including, but not limited to, the States of Nevada and New York, are taking steps to minimize the impact of the COVID-19 crisis on tenants, including placing moratoriums on evictions, requiring holds on shutting off of utilities due to nonpayment, and prohibiting rental late fees; and

WHEREAS, the County relies heavily on its partnerships with the private sector to acquire, construct or rehabilitate affordable housing developments through the County's affordable housing programs such as the Documentary Stamps Surtax, State Housing Initiatives Partnership, HOME Investment Partnership, Community Development Block Grant and the Building Better Communities General Obligation Bond programs ("Affordable Housing Programs"); and

WHEREAS, through the Affordable Housing Programs, developers of affordable housing are provided loans or grants by the County, which such loans or grants are approved by this Board; and

WHEREAS, as a condition of receiving a loan or a grant through one or more of the Affordable Housing Programs, loan documents or grant agreements are executed between the County and the developers; and

WHEREAS, additionally, developers, who acquire, construct or rehabilitate an affordable rental housing development, are required to execute and record restrictive covenants, such as rental regulatory agreements, that require the housing development to remain affordable for a period of time, such as 30 years; and

WHEREAS, the initial rents for each of the dwelling units covered by such covenants are established at the time such covenants are executed; and

WHEREAS, the covenants typically allow developers to annually increase their tenants' rents based on the increases in area median income which are published by the United States Department of Housing and Urban Development ("HUD") for Miami-Dade County; and

WHEREAS, such covenants provide that any other adjustments to rents will be made only if the County, and HUD if applicable, in its sole discretion, find any adjustments necessary to support the continued financial viability of the developments and only by an amount that the County, and HUD if applicable, determines is necessary to maintain continued financial viability of the developments; and

WHEREAS, this Board believes that the County should in no way contribute to increases in tenants' rent in developments funded through one or more of the Affordable Housing Programs during and immediately after declarations of a state of emergency by the Governor or the County Mayor; and

WHEREAS, accordingly, this Board wishes to ensure that the County, by and through its Miami-Dade Public Housing and Community Development Department or any other department of the County, does not consider, authorize or approve rent increases within any development funded through one or more of the County's Affordable Housing Programs during the term of any declarations of emergency issued by the Governor or the County Mayor because of a pandemic, such as COVID-19, or other emergency, such as a hurricane or other natural disaster, and for 30 days after the expiration of such declarations of emergency; and

WHEREAS, this Board wishes to exclude from this directive any rent increases authorized under any County-approved covenant that are attributable to increases in median income as published by the United States Department of Housing and Urban Development for Miami-Dade County,

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

Section 1. Incorporates and approves the foregoing recitals as if fully set forth herein.

Section 2. Directs the County Mayor or the County Mayor's designee to ensure that the County, by and through its Miami-Dade Public Housing and Community Development Department or any other department of the County, does not consider, authorize or approve increases in rents within any development funded through one or more of the County's affordable housing programs, such as the Documentary Stamps Surtax, State Housing Initiatives Partnership,

HOME Investment Partnership, Community Development Block Grant and the Building Better Communities General Obligation Bond programs (“Affordable Housing Programs”), during the term of any declarations of emergency for Miami-Dade County issued by the Governor or the County Mayor because of a pandemic, such as COVID-19, or other emergency, such as a hurricane or other natural disaster, and for 30 days after the expiration of such declarations of emergency.

Section 3. Provides that the provisions of section 2 shall not apply to any increases in rents authorized or required under any County-approved covenant including those that are attributable to increases in median income as published by the United States Department of Housing and Urban Development for Miami-Dade County.

Section 4. Directs the County Mayor or the County Mayor’s designee to investigate whether:

- a. Any owners of any developments funded through one or more of the Affordable Housing Programs have increased their rents on or after March 9, 2020, the date that the Governor issued Executive Order No. 20-52, without the County’s consent, with the exception of those authorized or required increases that are attributable to increases in median income as published by the United States Department of Housing and Urban Development for Miami-Dade County; and
- b. Whether the Miami-Dade Public Housing and Community Development Department or other County department has authorized rent increases for any development funded through one or more of the Affordable Housing Programs on or after March 9, 2020.

Section 5. Directs the County Mayor or the County Mayor’s designee to submit a written report to this Board outlining their findings from the investigation required in section 4, which shall include the following information:

- (i) the names and addresses of any development that increased their rents without the County's consent during the period of the declarations of emergency issued by the Governor or the County Mayor;
- (ii) the names and addresses of any development that increased their rents with the County's consent during the period of the declarations of emergency issued by the Governor or the County Mayor;
- (iii) if the County did not consent to the rent increase, the steps the County will take to enforce the terms of any loan or grant documents;
- (iv) if the County consented to the rent increase, a detailed description outlining the reason such consent was given; and
- (v) the source of the County funding used to support the acquisition, construction or rehabilitation of the development in which the owner of such development increased rents with or without the consent of the County.

Section 6. Directs the County Mayor or County Mayor's designee to provide the report to this Board within 60 days of the effective date of this resolution and further directs that the completed report be placed on an agenda of this Board pursuant to Ordinance No. 14-65.

The Prime Sponsor of the foregoing resolution is Commissioner Esteban L. Bovo, Jr. 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:

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

The Chairperson thereupon declared this resolution duly passed and adopted this 19th day of May, 2020. 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.



Terrence A. Smith