

Memorandum



Date: March 10, 2023

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Subject: Report Outlining Unsafe Structures Enforcement Procedures and Open Unsafe Structures Cases – Directive No. 212308

Agenda Item No. 2(B)(10)
April 4, 2023

Executive Summary

On October 5, 2021, the Board of County Commissioners (BCC) adopted *Resolution No. R-958-21* directing the County Mayor to prepare a written report outlining unsafe structures enforcement procedures and disclosing the number of open enforcement cases before the Unsafe Structures Board and Unsafe Structures Appeals Panel. More specifically, the report was to include the number of open enforcement cases pending in unincorporated Miami-Dade County, the number of demolition orders issued by the Unsafe Structures Board and Unsafe Structures Appeals Panel during the last five years, the number of structures demolished per a demolition order during the last five years and the average length of time an enforcement proceeding takes before the Unsafe Structures Board and Unsafe Structures Appeals Panel. Additionally, the report was to include the number of open enforcement cases pending per municipality based upon information provided by municipalities in response to the County's requests, along with identifying issues and challenges the Unsafe Structures Board and Unsafe Structures Appeals Panel faces in moving enforcement proceedings to a conclusion.

The following report provides the information requested by the resolution along with narrative providing context to the data and findings within the document.

Unsafe Structures Board and Unsafe Structures Panel Review Authority

The unsafe structures procedures are codified in Section 8-5 of the Code of Miami-Dade County (Code). The Unsafe Structures Board and Unsafe Structures Appeal Panels were created to exercise their authority within Miami-Dade County and most municipalities to ensure the safety of buildings throughout the community. The Unsafe Structures Appeal Panels hear appeals of decisions of the Miami-Dade County Building Official declaring single-family and duplex residences and their accessory structures unsafe where there is a danger to the health and safety of the citizens. The Unsafe Structures Board is entrusted with hearing appeals of decisions of Building Officials declaring any structures, which are not within the jurisdiction of the Unsafe Structures Appeal Panels, to be unsafe where there is a danger to the health and safety of the citizens.

A municipality may establish by ordinance its own administrative process to address unsafe structures within municipal boundaries, including a process for appeal of decisions of their Building Official that structures are unsafe, as authorized in Chapter 8-5 of the Code. The

municipal governments of Miami, Coral Gables, Miami Gardens, Homestead, El Portal and Doral have established their own boards or panels to hear such unsafe structure cases.

Unsafe Structure Evaluation/Designation

Buildings or structures can be deemed unsafe by the Building Official for being unsanitary, having inadequate means of egress, or which constitute a fire or windstorm hazard, or are otherwise dangerous to human life or public welfare by reason of illegal or improper use, occupancy, or maintenance, or which have been substantially damaged by the elements, acts of God, fire, explosion or otherwise. The Building Code requires a permit to demolish the structure or where allowed, to bring the building into compliance. Incomplete buildings or construction of buildings where the building permit has been allowed to expire are also deemed unsafe.

The Code contains physical criteria under which a building or structure is to be deemed unsafe.

1. A building shall be deemed a fire hazard and/or unsafe when:
 - It is vacant, unguarded and open at doors or windows.
 - There is an accumulation of debris with a hazard of combustion.
 - The building condition creates hazards with respect to means of egress.
2. A building, or part thereof, shall be presumed to be unsafe if:
 - There is a falling away, hanging loose or loosening of any siding, block, brick, or other building material.
 - There is a deterioration of the structure or structural parts.
 - The building is partially destroyed.
 - There is an unusual sagging or leaning out of plumb, and such effect is caused by deterioration or over-stressing.
 - The electrical or mechanical installations or systems create a hazardous condition.
 - An unsanitary condition exists.
3. A building, or part thereof, shall be presumed to be unsafe if:
 - The construction has been commenced or completed without a permit.
 - The construction has not been completed.
 - The building or structure is vacant and abandoned.
 - By reason of illegal or improper use.
 - The building or part thereof has not been repaired and brought into compliance following the expiration of the reasonable periods allowed by the Building Official, an Unsafe Structures Appeal Panel or the Unsafe Structures Board for such repairs.

The Code establishes that buildings which meet the physical criteria of unsafe structures and are ordered to be repaired by the Building Official, an Unsafe Structures Appeal Panel or the Unsafe Structures Board, which are not completed or repaired and brought into full compliance with the Building Code within the reasonable time allowed by the Building Official or the Unsafe

Structures Board, are to be demolished. Incidentally, buildings or structures subject to Recertification requirements, which the owner fails to timely respond to the Notice of Required Inspection or fails to make all required repairs or modifications found to be necessary resulting from the recertification inspection by the deadline specified or extension granted, are also deemed unsafe. These non-compliant building recertification cases may be considered by the Unsafe Structure Board or an Unsafe Structures Panel if they are referred for hearing by the Building Official.

Unsafe Structures Enforcement Cases

The enforcement cases that are brought by the Building Official or because of an appeal before the County's Unsafe Structures Board and Unsafe Structures Appeals Panel for Unincorporated Miami-Dade are cleared monthly. The typical scheduling of items to be considered by the Board takes 45 to 60 days to have an item set for hearing, which encompasses the Code required legal notification, posting and advertisement of the property case. The County Unsafe Structures Board has historically considered an average of 25 to 30 cases per month at the Board and 20 unincorporated residential cases per month at the Unsafe Structures Appeal Panel. The Unsafe Structures Board and Unsafe Structures Panel do not carry a backlog of cases waiting to be heard that have been referred to them by the Building Officials or are pending an appeal.

Not all unsafe structures buildings and structures are referred to the Unsafe Structures Board or an Unsafe Structures Panel or hearing body during the enforcement actions taken by the Building Official. Building Officials may pursue various mechanisms to obtain compliance on the structures that do not result in a referral for an administrative unsafe structures hearing.

Open Unsafe Structure Cases (Municipalities)

The number of open unsafe structures enforcement cases pending per municipality was sought by circulating two targeted requests through the 34 municipal Building Officials and their building departments. Only six jurisdictions responded to the County's request for information. Due to the low response from municipalities, countywide averages could not be derived for unsafe structure enforcement cases. However, a review of the information provided by cities was made and the following information summarizes the data collected from the municipal areas on unsafe structures activities over the past five years.

- The City of Hialeah had 129 open unsafe structures enforcement cases as of November 30, 2021.
- The City of Homestead had 58 open unsafe structures enforcement cases as of November 17, 2021.
- The City of Miami had 2,186 open unsafe structures enforcement cases as of December 15, 2021. The City of Miami referred 1,952 of those cases to their Unsafe Structures Panel.

- The City of Miami Beach had 849 open unsafe structures enforcement cases as of November 29, 2021. They referred 17 cases to the County's Unsafe Structures Board over the period of five years.
- The City of North Bay Village had five open unsafe structures enforcement cases as of December 15, 2021.
- The City of Sweetwater did not have any open unsafe structures enforcement cases as of February 24, 2022. They have referred two cases to the County's Unsafe Structures Board over the period of two years.

Open Unsafe Structures Enforcement Cases (Unincorporated Area)

Unincorporated Miami-Dade County had 2,970 open unsafe structures enforcement cases as of December 27, 2021. For those cases referred by the Building Official, the Unsafe Structures Board has already heard and issued Board orders for 755 of these cases, and the Unsafe Structures Appeals Panel has already heard and issued Panel orders for 548 of these cases. The remaining 1,667 cases are at different stages of processing i.e., cases still within the Notice of Violation (NOV) allotted timeframe or extension, cases with expired NOV for reinspection, or cases pending to be referred to be scheduled for a hearing.

Unsafe Structure Cases Ordered Repaired/Demolished

Over the past five years, the Unsafe Structures Board and Unsafe Structures Appeals Panel has issued a total of 170 orders to repair or demolish structures in unincorporated Miami-Dade County. Respective municipal Unsafe Structures Panels have ordered the repair or demolition of 461 structures in the City of Miami, and eight in the City of Homestead.

Unsafe Structures Enforcement Case Time Periods

The average total length of time required for conclusion of an unsafe structure enforcement case within unincorporated Miami-Dade County is 456 days. This estimated time period includes standard timeframes for NOV, with allowed extension up to 180 days, permitting process, and includes any proceedings for cases before the Unsafe Structures Board and Unsafe Structures Appeals Panel that must also meet notice for hearing and posting requirements of minimum of 30 days.

Unsafe Structure Enforcement Case Challenges and Issues

Various issues and challenges arise in processing the unsafe structures enforcement cases which can lead to delays in compliance. Many of these are addressed by the Unsafe Structures Board and Unsafe Structures Appeals Panel by moving proceedings to a conclusion that protects the public through the remediation, repair, or demolition of the unsafe structure. Some of the obstacles that occur include the following:

- Homeowner’s Association financial ability and Association turnover affecting continuity of projects.
- Federally funded projects where additional time is required to access funds. (Similarly, other funding constraints or procedures around use of certain funding sources present themselves on both public and private projects that affect general timeliness of compliance.)
- Ownership disputes that delay permit processing and foreclosures.
- Phased actions need for repair/demolition with occupied structures.
- Zoning hearings may be required to legalize structures.
- Owner’s need to procure professional services competitively.
- Satisfying the quorum requirements at the Unsafe Structures Board.
(A pending Ordinance revising Chapter 8’s quorum requirements for this Board, to require “a majority of appointed members” for quorum rather than a fixed number is anticipated to provide relief. It will also propose flexibility in the range of cases heard by the Unsafe Panel, which will assist in the processing of pending hearings.)
- Building Safety Inspection reports, submitted by engineers, to the Unsafe Structures Board are not clearly stating the building’s safety status and raise questions on the statements and conclusions made in the reports. (As reported to this Board via memorandum accompanying Ordinance No. 22-57 adopted June 1, 2022, which amended the Recertification process, changes have been made to recertification reporting requirements to provide more specificity in engineer’s assessments.)

The Department of Regulatory and Economic Resources (RER) is working toward minimizing the number of open unsafe structures cases and accelerating the enforcement process to facilitate timely compliance. In FY 22-23, additional positions were approved in RER’s Code Compliance Division which will hasten case processing timelines. There is a great demand for building inspectors in both the private and public sectors, causing significant competition for credentialed staff. RER is working the Human Resources Department to better align County salaries with that of industry. Changes to Chapter 8’s existing credentialing requirements are also being forwarded for the Board’s consideration to create new staffing categories anticipated to assist with the filling of building enforcement and other vacant trade positions in RER, as well as the municipal jurisdictions.

In accordance with Ordinance No. 14-65, this report will be placed on the next available Board meeting agenda. If additional information is needed, please contact Lourdes M. Gomez, Director, Department of Regulatory and Economic Resources, at Lourdes.Gomez@MiamiDade.gov

c: Geri Bonzon-Keenan, County Attorney
Gerald K. Sanchez, First Assistant County Attorney

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