

MEMORANDUM

Agenda Item No. 7(E)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: December 3, 2013

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

SUBJECT: Ordinance granting extended compliance period for property owners to comply with building code and zoning code and creating a limited exception from payment of civil penalties and liens for building and zoning code violations upon a property owner's satisfaction of certain conditions
Ordinance No. 13-117

This item was amended at the Land Use and Development Committee on 11-14-13 as follows:

. **Section 1 was amended so it is more clear that not only does there need to be an application for compliance extension made by a property owner within the area generally bounded by NW 27th Avenue to NW 37th Avenue, and NW 92nd Street to NW 106 Street, but that the property at issue must also lie within that same geographic area.**

. **Section 4 was amended to make more clear that the Building Official has sole discretion to determine what is a life-safety issue, in accordance with the provisions of Section 8-4(d) of the County Code, which would exclude properties referenced in Section 1 from the Extension Compliance provisions of the ordinance.**

The accompanying ordinance was placed on the agenda at the request of Prime Sponsor Commissioner Jean Monestime.



R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum



Date: December 3, 2013

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez". The signature is fluid and cursive, written over the printed name.

Subject: Ordinance Granting Extended Compliance Period for Property Owners to Comply with Building Code and Zoning Code and Creating a Limited Exception from Payment of Civil Penalties and Liens for Building and Zoning Code Violations Upon a Property Owner's Satisfaction of Certain Conditions, Including Compliance with the Building and Zoning Code

The proposed ordinance extends for one year the amnesty period created by Ordinance 11-64 for a limited exception from penalties and liens for building code violations. Ordinance 11-64 originally became effective in August 2011, and was extended once for one year effective August 2012 and will expire August 2013. Since adoption, 586 homeowners have taken advantage of the provisions of Ordinance 11-64. The total liens and civil penalties assessed from August 2011 up to June 7, 2013 amounted to \$5,078,652 of which the net negotiated relief to the property owners totaled \$4,793,382. As a result of continuing to wave penalties and liens previously assessed by the County, a fiscal impact will continue to occur. The extent of the fiscal impact resulting from the extension of the amnesty will depend on the number of property owners that opt to be covered.

A handwritten signature in black ink, appearing to read "Jack Osterholt". The signature is fluid and cursive, written over the printed name.

Jack Osterholt
Deputy Mayor

Fis9513



MEMORANDUM

(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: December 3, 2013

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

SUBJECT: Agenda Item No. 7(E)

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 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. 7(E)
12-3-13

ORDINANCE NO. 13-117

ORDINANCE GRANTING EXTENDED COMPLIANCE PERIOD FOR PROPERTY OWNERS TO COMPLY WITH BUILDING CODE AND ZONING CODE AND CREATING A LIMITED EXCEPTION FROM PAYMENT OF CIVIL PENALTIES AND LIENS FOR BUILDING AND ZONING CODE VIOLATIONS UPON A PROPERTY OWNER'S SATISFACTION OF CERTAIN CONDITIONS, INCLUDING COMPLIANCE WITH THE BUILDING AND ZONING CODE OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, Miami-Dade County is in the midst of a severe economic crisis; and

WHEREAS, this Board wishes to encourage compliance with the Building Code and Zoning Code while being mindful of the hardships that result to property owners from the strict application of the County's system of fines and penalties relating to building and zoning code violations; and

WHEREAS, approximately six-hundred property owners in the area delineated in Section 1 of this Ordinance have been cited for violations of the Miami-Dade County Code based upon complaints made by a single property owner who had been previously cited; and

WHEREAS, nearly two-hundred of those cases remain open, which primarily deal with violations relating to Building Code and Zoning Code sections; and

WHEREAS, due to the limited income and resources available to the property owners with nearly two-hundred open cases, additional time is needed to gain compliance; and

WHEREAS, to accomplish these purposes, this Board wishes to create a limited exception from civil penalties and liens resulting from Building Code and Zoning Code violations upon a property owner's compliance with the Building Code and Zoning Code in the manner more particularly set forth below,

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

Section 1. Upon application of a property owner within the area generally bounded by NW 27th Avenue to NW 37th Avenue, and NW 92nd Street to NW 106 Street, the County shall waive any and all civil penalties related to the enforcement of Chapter 8 and Chapter 33 of the Code of Miami-Dade County in connection with a single family structure >>within the aforementioned area<<¹ that has qualified for and received homestead exemption, and all liens related to such civil penalties, provided the property owner satisfies each of the following conditions:

(a) Entry into and compliance with a consent agreement with the Miami-Dade County Department of Regulatory and Economic Resources; and

(b) A permit is issued to correct all Code violations within the Extended Compliance Period as defined in this ordinance; and

¹ Committee amendments are indicated as follows: Words double stricken through and/or [[double bracketed]] are deleted, words double underlined and/or >>double arrowed<< are added.

(c) The structure is brought into compliance with the Code within the period provided in the Building Code for completion of the work under the permit obtained within the Extended Compliance Period; and

(d) All direct costs of the Miami-Dade County Department of Regulatory and Economic Resources in connection with prior enforcement in connection with the structure, as documented by the Department, shall be satisfied in full.

Section 2. For purposes of this ordinance, the term “Extended Compliance Period” shall mean that period of time commencing on the effective date of this ordinance and ending five years thereafter.

Section 3. Notwithstanding and prevailing over anything to the contrary contained herein, this ordinance shall not apply in the event that the County has commenced a civil action to collect on the civil penalties or to foreclose a lien or to enforce the Code of Miami-Dade County. This ordinance shall not serve as a defense against any such action or against any enforcement action brought by the County.

Section 4. Notwithstanding and prevailing over anything to the contrary contained herein, this ordinance shall not apply to any violation determined to be a life-safety issue by the Building Official >>in his sole discretion<<, subject to the provisions of Section 8-4(d) of the County Code.

Section 5. The Mayor or Mayor’s designee is hereby directed to implement the necessary procedures and to develop the necessary documents to give effect to the intent of this ordinance.

Section 6. 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 7. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance shall be excluded from the Code of Miami-Dade County.

Section 8. 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.

Section 9. This ordinance shall stand repealed five year(s) from its effective date.

PASSED AND ADOPTED: December 3, 2013

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:

David Sherman

Prime Sponsor: Commissioner Jean Monestime