

MEMORANDUM

Agenda Item No. 5(C)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

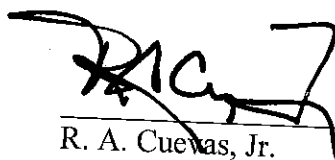
DATE: July 14, 2015

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

SUBJECT: Ordinance amending Chapter 17,
Article IX of the Code relating to
the Workforce Housing
Development Program
Administration; amending
definition of the terms
"Workforce Housing Rent" or
"WHU Rent"; setting minimum
amount of County mortgage;
updating incorrect Code
reference; updating terminology

Ordinance No. 15-63

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan and Co-Sponsor Commissioner Sally A. Heyman.



R. A. Cuevas, Jr.
County Attorney

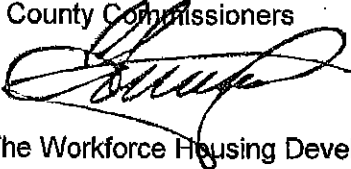
RAC/smm

Memorandum



Date: July 14, 2015

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez 
Mayor

Subject: Ordinance Relating to The Workforce Housing Development Program Administration

The proposed Ordinance relating The Workforce Housing Development Program Administration amends Chapter 17, Article IX of the Code by changing the definition of the terms "Workforce Housing Rent" or "WHU Rent", setting a minimum amount of County mortgage and updating incorrect code reference and terminology. Implementation of this ordinance will not have a fiscal impact on the County.

A handwritten signature in black ink, appearing to be "Russell Benford", written over a horizontal line.

Russell Benford
Deputy Mayor

Fis07615



MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: July 14, 2015

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

SUBJECT: Agenda Item No. 5(C)

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. 5(C)
7-14-15

ORDINANCE NO. 15-63

ORDINANCE AMENDING CHAPTER 17, ARTICLE IX OF THE CODE OF MIAMI-DADE COUNTY RELATING TO THE WORKFORCE HOUSING DEVELOPMENT PROGRAM ADMINISTRATION; AMENDING DEFINITION OF THE TERMS "WORKFORCE HOUSING RENT" OR "WHU RENT"; SETTING MINIMUM AMOUNT OF COUNTY MORTGAGE; UPDATING INCORRECT CODE REFERENCE; UPDATING TERMINOLOGY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Section 17-140 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

ARTICLE IX. - WORKFORCE HOUSING DEVELOPMENT PROGRAM ADMINISTRATION

Sec. 17-140. Definitions.

The definitions contained in Chapter 33, Article XIIA of the Code of Miami-Dade County, shall apply to this chapter in addition to the following:

* * *

- (2) "Certificate of qualification" means a certificate issued by the Department establishing a qualified household's eligibility to purchase or rent a workforce housing unit ("WHU"). Certificates of qualification shall be valid for 12 months. The certification criteria are set by ~~[[administrative]]~~ >>implementing<< order.

* * *

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.

- (15) “Workforce housing unit rent” or “WHU rent” means rents that do not exceed the >>maximum<< monthly ~~[[Fair Market]]~~ Rent >>Limits<< as determined for Miami-Dade County by the U.S. Department of Housing and Urban Development >>in its annual Income Limits and Rent Limits and as used by Florida Housing Finance Corporation for its multifamily rental programs<< (published annually at ~~[[http://www.huduser.org/datasets/fmr/fmrs/index.asp?data=fmr06]]~~ >>http://www.floridahousing.org)<<.

- (16) “Workforce housing unit sales price” or “WHU sales price” shall mean the sales price set by the ~~[[Director]]~~ >>Board<< pursuant to an ~~[[administrative]]~~ >>implementing<< order, not to exceed an amount affordable at the maximum workforce housing target income range, as defined in Chapter 33, Article XIIA of the Code of Miami-Dade County, taking into account (a) family size; (b) an annual fixed interest rate based on a thirty (30) year mortgage term; (c) payment of up to five percent (5%) down payment by a qualified household; and (d) an estimation of annual property taxes, assessments, loan insurance and financing fees, allowances for property maintenance and repairs, homeowners insurances, homeowner association fees, if any, and allowances for utilities.

* * *

Section 2. Section 17-142 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 17-142. Compliance procedures.

- (A) Workforce Housing Declaration of Restrictive Covenants and Workforce housing agreement
 - (1) Every WHU established pursuant to Chapter 33, Article XIIA of the Code of Miami-Dade County shall be offered for sale or rental to a qualified household to be used for his or her own primary residence. The County, through the Director, shall publish a pricing schedule of rental and sales prices for WHUs in accordance with this article.

- (2) Any developer or other property owner offering a WHU for initial sale or rental shall record in the public records one or more covenants or declarations of restrictions in a form approved by the County. Such covenants or declarations of restrictions shall include the WHU Agreement, and such further arrangements, restrictive covenants, and resale or rental restrictions as are necessary to carry out the purposes of this article. The developer or other property owner must execute and record a declaration of restrictive covenants assuring that:
 - (a) the restrictions of this article shall run with the land for the entire control period;
 - (b) the covenants will bind the applicant, any assignee, mortgagee, or buyer, and all other parties that receive title to or interest in the property. These covenants shall be senior to all instruments securing permanent financing.

- (3) Each qualified household purchasing a WHU shall be required to record a mortgage in favor of Miami-Dade County >>in an amount of \$100.00 or such other amount that may be borrowed by a qualified household from the County<<. A promissory note shall be executed by each qualified household and secured by said mortgage. Said mortgage shall set forth the same covenants, along with the refinancing and resale restrictions as those included in the restrictive covenants required by this section, and shall requirement of acknowledgment of the County's right of first refusal as set forth in section ~~[[17-135]]~~ >>17-144<< (B) and (C).
 - (B) WHUs offered for sale during the initial or any control period shall not be offered for a price greater than the current maximum WHU sales price as determined by the Department at the time of sale.
 - (C) A new twenty (20) year control period shall commence upon any resale and/or transfer to a new owner of such WHU within the initial 20-year control period. Any WHU that is owned for an entire 20 year control period by the same individual(s), shall be released from the sales price

restrictions under the program. Upon the expiration of the control period the County shall record in the public records of Miami-Dade County an instrument or document releasing the WHU from the restrictive covenant required by this program.

A WHU may not be resold during the control period set forth herein for an amount that exceeds the WHU sales price set by ~~[[administrative]]~~ >>implementing<< order. Prior to offering the dwelling unit for sale during the control period, the WHU owner shall obtain the Director's written approval of the WHU sales price.

The covenants recorded by each developer or other property owner of WHUs shall state in said covenant that the unit is subject to the following provisions:

* * *

Section 3. Section 17-143 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 17-143. Eligibility of households for workforce housing units.

Eligibility for rental or purchase of WHUs shall be determined pursuant to an ~~[[administrative]]~~ >>implementing<< order approved by the Board of County Commissioners and shall be based on household size and income. An eligible household must receive a certificate of qualification from the Department to become a qualified household for a WHU, in accordance with the procedures prescribed by the ~~[[administrative]]~~ >>implementing<< order.

Eligibility for continued ownership or rental of a WHU shall be contingent upon the qualified household's use of the WHU as its primary residence.

- (A) A qualified household that purchases a WHU and that discontinues occupancy of the unit as its primary residence shall be in default of the mortgage recorded against the WHU by the County.

- (B) A qualified household that leases a WHU and that discontinues occupancy of the unit as its primary residence shall be required to vacate said unit.

Section 4. Section 17-144 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 17-144. Affordability controls.

- (A) Initial sale or rental.
 - (1) Every WHU established under this article and Chapter 33, Article XHIA of the Code of Miami-Dade County, shall be offered for sale or rental to an eligible household to be used for his or her own primary residence.
 - (2) Sixty (60) days prior to offering any new WHU for sale or rent, the developer or other property owner shall notify the Department of such offering. The notice shall set forth the number, size, price established by applicable ~~[[administrative]]~~ implementing order, and location of the WHU offered and shall provide a description of each WHU's finishes and availability. The Department may request additional information from the developer or other property owner as it deems necessary.
 - (3) Upon notification from the developer or other property owner, the Department shall make such notice available to eligible households through its web site, a prominently located posting at the Department, and other locations designated by the County.
 - (4) If the Department determines an eligible household qualifies for the rental or owner-occupied WHUs, the Department will issue a certificate of qualification. In order to receive a certificate of qualification, an eligible household must provide an affidavit that the WHU will be its primary residence.

- (5) A qualified household that has purchased a WHU shall not lease said WHU.
 - (6) Upon resale or re-rental of a WHU, each qualified household must first obtain a valid certificate of qualification from the prospective eligible household.
- (B) Right of first refusal.
- (1) Initial Sale. The developer or other property owner of a WHU shall agree to execute a document consistent with a model restriction prepared by the Department, granting to the County, among other things, the County's right of first refusal to purchase the WHU in the event that a qualified household does not execute a contract for purchase within six (6) months from the date the WHU is offered for sale. In the event that no qualified household purchases a WHU within six (6) months from the date the WHU is first offered by the developer or other property owner, the Director shall recommend to the County ~~[[Manager]]~~ >> Mayor or the County Mayor's designee << whether the County should exercise its right of first refusal to purchase the WHU at the WHU sales price. If the County ~~[[Manager]]~~ >> Mayor or the County Mayor's designee << concurs, the Director shall notify the developer or other property owner of the County's decision. The County ~~[[Manager]]~~ >> Mayor or the County Mayor's designee << is authorized to exercise the right of first refusal provided hereunder, with funds allocated from the Affordable Housing Trust Fund established pursuant to Section 17-129, et. seq., Code of Miami-Dade County or any other authorized source, for the direct and exclusive purpose of providing workforce housing for those households meeting the workforce housing eligibility requirements. Notwithstanding this authorization to purchase, the County ~~[[Manager]]~~ >> Mayor or the County Mayor's designee << shall bring to the Board of County Commissioners a resolution seeking ratification of said purchase at the next available Board meeting following the purchase of the WHU.

(2) Resale. Any qualified household that intends to sell its WHU prior to the expiration of the control period shall provide written notification to the Department pursuant to subsection (C) below. In the event the qualified household does not execute a contract for purchase within six (6) months from the date the WHU is first offered for resale, the County shall have a right of first refusal to purchase the WHU. The Director shall recommend to the County ~~[[Manager]]~~ >>Mayor or the County Mayor's designee<< whether the County should exercise its right of first refusal to purchase the WHU at the WHU sales price. If the County ~~[[Manager]]~~ >>Mayor or the County Mayor's designee<< concurs, the Director shall notify the qualified household of the County's decision. The County ~~[[Manager]]~~ >>Mayor or the County Mayor's designee<< is authorized to purchase the WHU, without prior approval from the Miami-Dade Board of County Commissioners, from the funds earmarked in the Affordable Housing Trust Fund, which has been established pursuant to Section 17-129 et seq., Code of Miami-Dade County, or any other authorized source, for the direct and exclusive purpose of providing workforce housing for those households meeting the workforce housing eligibility requirements. Notwithstanding this authorization to purchase, the County ~~[[Manager]]~~ >>Mayor or the County Mayor's designee<< shall bring to the Board of County Commissioners a resolution seeking ratification of said purchase at the next available Board meeting following the purchase of the WHU.

(C) Control of resale prices.

- (1) The maximum sales price, with the exception of sales under order of court, permitted on resale of a WHU shall be the lesser of:
- (a) the maximum sales price for a WHU as set by the Department at the time of resale to an eligible household; or
 - (b) the market value of the unit for sale.

- (2) The WHU may be resold to any eligible household. Any qualified household that has purchased a WHU shall notify the Department in writing of his or her intent to offer the WHU for resale. The qualified household shall not sell the WHU for an amount in excess of the allowable WHU sales price.
- (3) Before closing a sale, the seller of the WHU shall submit to the Department for approval (which approval shall not be unreasonably withheld or delayed):
 - (a) a copy of the proposed sales contract;
 - (b) a signed copy of the buyer's certification of qualification (if not provided by the Department); and
 - (c) an affidavit signed by the seller and the buyer attesting to the accuracy of all documents and conditions of the sale.
- (4) No resale of a WHU shall be considered to be in compliance with this article until all required documents and affidavits have been submitted to and approved by the Department.
- (5) The Department shall either approve or disapprove all required documents and affidavits in writing no later than five (5) business days after they are submitted to the Department. The Department's failure to issue such approval or disapproval within the required time period shall result in such documents and affidavits being deemed approved. If the Department disapproves such documents or affidavits then the Director shall provide the seller, in writing, with reasons for such disapproval and an opportunity to correct any deficiencies.
- (D) Resale requirements during the control period. The County ~~[[Manager]]~~ >>Mayor or the County Mayor's designee<< may adopt additional requirements for reselling WHUs consistent with this article, including without limitation a requirement that within forty-eight (48) hours prior to closing, a seller submit to the Department for approval:

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- (1) a copy of the proposed sales contract, including a list and the price of any personal property included in the sale;
 - (2) a signed copy of the settlement sheet; and
 - (3) an affidavit signed by the seller and buyer attesting to the accuracy of all documents and conditions of the sale.
- (E) Foreclosures and other proceedings.
- (1) If any qualified household of a WHU defaults on its mortgage with the County and said default is not cured within the applicable time periods, then the whole debt secured by said mortgage, with all interest thereon, and all other amounts thereby secured shall, at the option of the County, become immediately due and payable. In the event any qualified household of a WHU fails to cure the default, the County shall have the right to legally enforce the term of the mortgage or collect the debt in any action at law, including but not limited to a proceeding in foreclosure. Any proceeds, including any expenses or expenditures incurred and recovered by the County, shall be deposited in the Affordable Housing Trust Fund>>, which has been established pursuant to Section 17-129 et seq. of the Code of Miami-Dade County<<. These funds shall not be commingled with any other funds deposited into the Affordable Housing Trust Fund that are not associated with the WHU program, but shall be deposited into a separate account.
 - (2) In any suit, action or proceeding, including without limitation bankruptcy, probate or any other suit, action or proceeding affecting the WHU, any monies recovered by the County shall be deposited into the Affordable Housing Trust Fund.

- (3) Notwithstanding subsection E (1) and (2), in the event of default by a qualified household on any senior mortgage associated with a WHU, the County ~~[[Manager]]~~ >> Mayor or the County Mayor's designee<< is authorized to pay off said senior mortgage and assume ownership of the WHU by using funds from the Affordable Housing Trust Fund for resale to an eligible household. The defaulting qualified household shall be required to vacate the WHU as authorized by law. The County ~~[[Manager]]~~ >> Mayor or the County Mayor's designee<< is further authorized to purchase any WHU that is sold as a result of any suit, action or proceeding, including but not limited to foreclosure, bankruptcy, probate or any other suit, action or proceeding affecting the WHU. Notwithstanding this authorization to purchase, the County ~~[[Manager]]~~ >> Mayor or the County Mayor's designee<< shall bring to the Board of County Commissioners a resolution seeking ratification of said purchase at the next available Board meeting following the purchase of the WHU.

(F) Rental WHU Requirements.

- (1) All qualified households must be provided a lease with a minimum period of twelve (12) months. The lease must comply with all applicable federal and state laws. The lease shall include without limitation provisions that specify the maximum household size allowed in the unit; a prohibition against subleasing; and a requirement that the qualified household shall report any changes in household size or income during the tenancy. Qualified households shall comply with all monitoring requirements established by the Department.

- (2) If a qualified household's income increases above the maximum allowed income levels, the qualified household may choose to remain in the WHU for the remainder of the lease term. If the formerly qualified household and the developer or other property owner agree to extend the lease term, the developer or other property owner shall make the next comparable vacant unit at the covered development available to an eligible household at the WHU rent.

Section 5. Section 17-145 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 17-145. Trust Fund Expenditures.

Funds from the workforce housing development program deposited into the Affordable Housing Trust Fund, >>which has been established pursuant to Section 17-129 et seq. of the Code of Miami-Dade County<< including, without limitation, monetary contributions in lieu of development of workforce housing units, shall only be used to increase opportunities to obtain workforce housing for households earning 65% to 80% of the area median income. Notwithstanding the foregoing, when exercising the right of first refusal pursuant to Section 17-144, the County ~~[[Manager]]~~ >>Mayor or the County Mayor's designee<< may utilize monies deposited into the Affordable Housing Trust Fund from the workforce housing development program without limitation.

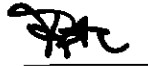
Section 6. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 7. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a 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.

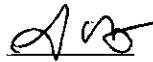
Section 8. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED: July 14, 2015

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Terrence A. Smith

Prime Sponsor: Commissioner Barbara J. Jordan
Co-Sponsor: Commissioner Sally A. Heyman