

Date: May 4, 2015

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

From: Carlos A. Gimenez
Mayor 

Subject: Report Regarding Extending Amnesty Period Established by Ordinance 11-64 for
an Additional Year

This memo is provided in response to issues raised by members of the Unincorporated Municipal Services Area (UMSA) Committee on April 14, 2015, regarding Public Hearing Item 1G6 (Legistar 150402) to extend the amnesty period created by Ordinance 11-64 for an additional year.

Ordinance 11-64

Ordinance 11-64 was adopted by the Board of County Commissioners (Board) on August 2, 2011, to provide financial relief to property owners who were facing civil penalties and liens associated with building code violations. The Ordinance established a six-month amnesty period during which civil penalties (tickets) and lien exemptions would be offered to homeowners upon verification that building permits were obtained and violations corrected within the amnesty period. However, homeowners were required to pay all direct costs incurred by the enforcement unit in relation to the building code violations.

Subsequently, the Board extended the amnesty period three times for one-year periods. Currently, the amnesty period will expire July 2015 unless the proposed one-year extension (Legistar 150402) is approved by the Board.

Background

Prior to the adoption of Ordinance 11-64, the Building and Neighborhood Compliance Department (now the Department of Regulatory and Economic Resources, "the Department") negotiated liens through its settlement policy conditioned on the correction of the violations and the recovery of direct and indirect enforcement costs, consistent with the Department's proprietary funding model. It should be noted, however, that negotiations always excluded the face value of the civil penalties (tickets). Civil penalties are issued as a result of confirmed violations of the building code and are issued only after the Department has warned the responsible party and afforded time to correct the violation. An exemption from payment of the civil penalties (except during a temporary amnesty period) may have the unintended consequence of encouraging illegal construction.

Fiscal Impact

As of April 2, 2015, 1,824 cases were processed under the provisions of Ordinance 11-64. To understand and calculate the fiscal impact, many factors must be considered. As stated above, prior to Ordinance 11-64, the Department already had the ability to negotiate liens. If Ordinance 11-64 had not been adopted, the Department nonetheless would have negotiated the 1,824 cases under the Department's existing lien settlement policy offered to homeowners who correct the violations, but also would have collected the civil penalties, as previously noted. Based on

settlement criteria applied to cases that do not qualify under Ordinance 11-64, the Department calculated an overall lien collection rate of 19 percent.

The total value of the penalties and liens for those 1,824 cases is \$17,995,679. The civil penalties total \$930,240 (1,824 x \$510) and liens total \$17,065,439. The total amount collected to date, per Ordinance 11-64, for the current amnesty period is \$1,254,758, which is based on the Department's direct enforcement costs. The projected total collection under the existing lien settlement policy, based on the 19 percent lien collection rate, is estimated at approximately \$4,172,673 (civil penalties of \$930,240 + liens of \$3,242,433). Therefore, the fiscal impact to the Department for the amnesty period from August 12, 2011 to date is \$2,917,915 (revenues of \$4,172,673 - enforcement costs of \$1,254,758).

Properties Subject to Foreclosure Action

On December 2, 2008, the Board adopted Ordinance 08-133, which amended Section 33-8 of the Zoning Code and established the requirement for a Certificate of Use for residential units acquired through certificate of title.

Individuals or entities that foreclose on residential units are required to obtain a Certificate of Use (CU) from the Department. A condition of the CU is the disclosure of all building and zoning code violations by way of an inspection report that is prepared by a qualified professional. The report is recorded with the Clerk of the Courts as a means to alert prospective buyers of the violations on the property. Further, Ordinance 08-133 requires that building code violations identified as a consequence of this report be referred to the Department to initiate enforcement.

During the past few years, many homeowners have acquired homes that were subject to foreclosure action. Since the adoption of Ordinance 08-133, over 5,000 properties have been referred to the building code enforcement unit through the CU inspection process. An average of 500 cases per year were referred from 2009 through 2012. Beginning in 2013, the number of referred properties has escalated to over 1,000 cases per year.

While the recorded inspection report provides transparency and alerts prospective home buyers to violations prior to a purchase, the costs associated with the correction of the violations are often underestimated and new homeowners find themselves financially unable to correct the violations. The availability of Ordinance 11-64 offers these homeowners a measure of financial relief that may be used toward correcting the violations.

On December 2, 2008, the Board also adopted Ordinance 08-134, defining the responsibility of mortgage holders of real property to maintain the property upon the filing of a lis pendens or similar action. When filing a lis pendens, the party bringing the foreclosure action is required to register with the County every year until the foreclosure proceedings are completed or cancelled. These are properties that may be required to comply with the requirements of Ordinance 08-133, as previously explained, and may require building code enforcement action once the CU inspection report is filed.

In 2013, the number of foreclosure registrations peaked at 19,661 properties in Unincorporated Miami-Dade County. In 2014, the Department registered 16,098 properties, a decline of 18 percent. Our projection for 2015 is that 12,200 properties will register, which represents a 25 percent reduction from 2014. Though the decrease in the number of foreclosure registrations is encouraging, the remaining inventory is still substantial. These figures give us an indication that properties may continue to be foreclosed, requiring inspections and enforcement action.

Properties with outstanding building code violations represent a life safety concern. When the Department's enforcement action escalates to filing a lien and the violation remains uncorrected, the property and violation(s) are re-assessed. Under these circumstances, the Department pursues other enforcement mechanisms, such as civil injunctions or unsafe structure proceedings. Incentives that encourage compliance result in faster correction of violations, more effective use of enforcement staff and an overall benefit to the safety and appearance of the community.

If you have any additional questions, please contact Deputy Mayor Jack Osterholt at 305-375-3076.

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