



**OFFICE OF THE COMMISSION AUDITOR
MIAMI-DADE BOARD OF COUNTY COMMISSIONERS**

**COMMISSION AUDITOR'S
INFORMATIONAL RESEARCH**

BOARD OF COUNTY COMMISSIONERS MEETING

November 2, 2021

9:30 A.M.

Commission Chambers

Yinka Majekodunmi, CPA
Commission Auditor

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**BCC Meeting:
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Research Notes**

**Item No. 3A1
File No. 212545**

Research: CB / Reviewer: PGE

RESOLUTION APPROVING THE CITY OF MIAMI'S CODESIGNATION OF THAT PORTION OF NORTHWEST 27TH COURT FROM WEST FLAGLER STREET TO NORTHWEST 3RD STREET AS "CHAMACO GARCIA WAY"

Prime Sponsor: Commissioner Eileen Higgins, District 5

Requester: None

Committee Action Date: None

RESEARCH FINDINGS

OCA completed the required background research on "Chamaco Garcia" and noted no adverse findings. Pursuant to Ordinance No. 18-79, OCA determined that there is no prior Board of County Commissioners (BCC) codesignation for "Chamaco Garcia." Pursuant to Ordinance No. 19-11, OCA verified that "Chamaco Garcia" is deceased. In accordance with the cited ordinances, OCA is providing this report as a Supplement to BCC Agenda File Item No. 212545.

FINANCIAL ANALYSIS

N/A

ADDITIONAL INFORMATION

Bulleted below is the relevant legislation relating to the background research process:

- [Ordinance No. 13-29](#), adopted on April 2, 2013, requires OCA to conduct background research on any person, organization, place or thing that is the subject of a naming, renaming or codesignation item or an item approving the codesignation of state or municipal roads and prepare a report detailing the findings of said research prior to the Commission meeting during which the item is scheduled to be considered.
- [Ordinance No. 18-79](#), adopted on July 24, 2018, relates to any item codesignating any Miami-Dade County road, facility, or property, or approving any state or municipal road codesignation, and requires that OCA prepare a report detailing: (1) whether the subject road, facility, or property has been the subject of any prior codesignation and, if so, the location or the end points of each; and (2) whether there are any other roads, facilities, or properties located in Miami-Dade County that already bear the same name as the proposed new codesignation and, if so, the location or end points of each.
- [Ordinance No. 19-11](#), adopted on February 5, 2019, relates to codesignation items, requiring OCA's report to indicate whether the person to be honored is living or deceased.

**BCC Meeting:
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Research Notes**

**Item No. 7A
File No. 211964**

Research: CB / Reviewer: PGE

ORDINANCE WAIVING THE AGE REQUIREMENT OF SECTION 2-2381 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA AS TO NERCY RADCLIFFE TO ALLOW NERCY RADCLIFFE TO SERVE AS A MEMBER OF THE MIAMI-DADE COUNTY ELDER AFFAIRS ADVISORY BOARD; APPOINTING NERCY RADCLIFFE TO THE MIAMI-DADE COUNTY ELDER AFFAIRS ADVISORY BOARD; AND PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE, AND AN EFFECTIVE DATE

Prime Sponsor: Chairman Jose “Pepe” Diaz, District 12

Requester: None

Committee Action Date: 10/14/2021 – Public Housing and Community Services

RESEARCH FINDINGS

OCA completed the required background research regarding the appointment of Nercy Radcliffe to the Miami-Dade County Elder Affairs Advisory Board. The research yielded no adverse informational findings for the appointee. This report is being provided as a Supplement to BCC Agenda File Item Number 211964.

FINANCIAL ANALYSIS

N/A

ADDITIONAL INFORMATION

Bulleted below is the relevant legislation relating to the background research process:

- [Resolution No. R-636-14](#), adopted on July 1, 2014, requires OCA to conduct background research on applicants being considered to serve on County Boards and Trusts that require nominations or appointments by the BCC.

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**Item No. 7C
File No. 211324**

Research: JNF & TA / Reviewer: PGE

ORDINANCE RELATING TO THE BID PROTEST PROCESS; AMENDING SECTION 2-8.4 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA TO: (1) CODIFY COUNTY PROCEDURES FOR SELECTION, TERM, QUALIFICATIONS, SELECTION CRITERIA, ATTENDANCE REQUIREMENTS, REMOVAL AND VACANCIES OF HEARING EXAMINERS FOR BID PROTEST HEARINGS; AND (2) REQUIRE THE COUNTY MAYOR OR MAYOR'S DESIGNEE TO PUBLISH UPCOMING OR EXISTING HEARING EXAMINER PANEL VACANCIES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

Prime Sponsor: Senator René Garcia, District 13

Requester: None

Board Action Date: 6/2/21 Board of County Commissioners Meeting (Adopted on First Reading, 13-0)

Committee Action Date: 10/14/21 - County Infrastructure, Operations and Innovations Committee

RESEARCH FINDINGS

OCA's review of the item found no substantive legislative, procedural or administrative noncompliance. See the Additional Information section for historical and other background information on the item.

FISCAL IMPACT ANALYSIS

This ordinance would require the Mayor or Mayor's Designee to publish upcoming or existing Hearing Examiner Panel vacancies, which is not currently a practice of the Clerk of the Board. Specifically, the vacancy would need to be posted prominently on the County's website and published for no less than once a week for two weeks in a newspaper of general circulation, specifying the minimum requirements and outlining the application process, and deadline. The cost of the advertisement would vary based on the size, frequency, and publication(s) used, and the notice placement depends on where it will be accepted and preferred by the County Attorney's Office.

At OCA's request, the Clerk of the Board provided samples of invoices for advertisement of public notices. Recent notices regarding opportunities to serve as Special Magistrates before the Miami-Dade County Value Adjustment Board cost \$99 to \$135 for the Daily Business Review and \$1,046 for Miami Today. Ads in The Miami Herald for legal notices, and for public notice of BCC Committee meetings, cost from \$863 to \$7,785, varying widely in cost depending on the section of the paper the ad is placed, what day the ad is run, and the number of words in the ad.

The item's Fiscal Impact Statement references additional technology tool(s) that may be needed by the Clerk of the Board to manage and process these added requirements.

ADDITIONAL INFORMATION

This proposed ordinance codifies the procedures set forth in a June 20, 1995 memorandum signed by both the County Attorney and the Clerk of the Board, which was accepted by the BCC on July 11, 1995. The memorandum was agenda item 6B1 on the July 11, 1995 BCC agenda, but is not currently found in Legistar.

The new requirements of this ordinance are:

1. The advertising of vacancies on the panel; and

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2. The Clerk of the Board and the County Attorney shall report to the Board on the selection of any hearing examiners to the panel, to include their respective race, gender, and ethnicity to ensure that they are representative of the community at large.

The panel would continue to be selected and appointed jointly by the County Attorney and Clerk of the Board and serve a two-year term.

The creation of Section 2-8.4(f)(5) *Utilization and Attendance* and (6) *Removal and Vacancies* of the County Code (which codifies the current provisions) requires automatic removal of hearing examiners for various reasons, such as inability to serve on three consecutive occasions or five occasions during his/her term. This may require staff time to track each hearing examiner's record to ensure compliance.

[Implementing Order \(I.O.\) 3-21](#) establishes the requirements and procedures governing bid protests brought by a participant in a competitive process utilized for award of a County contract or lease of a County property. The process calls for the Clerk of the Board to appoint a hearing examiner no later than five working days following the filing of a bid protest. The I.O. makes no reference to the selection process of the panel of hearing examiners.

The current panel of Hearing Examiners was selected and appointed jointly by the Clerk of the Board and the County Attorney on February 21, 2021:

1. Gisela Cardonne Ely, 11th Judicial Circuit Senior Judge
2. Eugene J. Fierro, 11th Judicial Circuit Senior Judge
3. William Johnson, 11th Judicial Circuit Senior Judge
4. Sandy E. Karlan, 11th Judicial Circuit Senior Judge
5. Judith L. Kreeger, 11th Judicial Circuit Senior Judge
6. Steven D. Robinson, 11th Judicial Circuit Senior Judge
7. Victoria S. Sigler, 11th Judicial Circuit Senior Judge
8. Raphael Steinhardt, 11th Judicial Circuit Senior Judge
9. Marc. A Douthit, Attorney (Currently Serving as Hearing Examiner)

[Section 2-8.4 of the County Code](#) pertaining to Protest Procedures requires a written intent to protest within three workdays of the filing of the award recommendation with the Clerk of the Board and within three days of filing the written intent to protest, the protester must file the complete bid protest, including pertinent documents and supporting evidence. It should be noted that protests often do not result in bid protest hearings for many reasons, such as the issues being resolved administratively or the protests are withdrawn at a later date. OCA requested the number of bid protests filed as compared to actual bid protest hearings held, but the Clerk of the Board advised that the statistics since 2020 are not representative, due to the pandemic.

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Research Notes**

**Item No. 8F5
File No. 211670**

Research: MF / Reviewer: PGE

RESOLUTION APPROVING AWARD OF CONTRACT NO. RFP-00499 TO MIAMI DADE SMART LIGHTING PARTNERS, LLC FOR THE PURCHASE OF LED SMART LIGHTING AND SMART COUNTY SYSTEMS FOR THE DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS IN A TOTAL AMOUNT OF \$48,076,396.00 PLUS QUARTERLY PAYMENT FOR OPERATIONS AND MAINTENANCE AT THE RATE OF \$75.025 PER POLE FOR A TOTAL ESTIMATED CONTRACT VALUE OF \$211,668,166.00 FOR A 15-YEAR TERM; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND TO EXERCISE ALL PROVISIONS OF THE CONTRACT, INCLUDING ANY CANCELLATION OR EXTENSION PROVISIONS, PURSUANT TO SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA AND IMPLEMENTING ORDER 3-38

Prime Sponsor: None

Requester: Internal Services Department

Previous Actions: 10/5/21 – BCC deferred; 9/13/21 – Transportation, Mobility, and Planning Committee forwarded with favorable recommendation.

- Note that at the TMPC meeting of September 13, 2021, the Committee members raised the following: 1) whether elements of the contract could be divided into zones to utilize small businesses for County-funded projects; 2) whether staff could include a community outreach component to ensure residents have input in the manner in which lighting service needs and/or repair requests are submitted; and (3) whether the 15-year contract term was prudent given expected technology advances.

RESEARCH FINDINGS

OCA's review of the item yielded the following findings:

1. A search of the recommended contractor (Miami Dade Smart Lighting Partners, LLC) in the County's Business Management Workforce System (BMWS) did not yield any results; it appears this will be the first time the County awards a contract to this contractor.
2. The Parks, Recreation and Open Spaces Department's Special Assessment District Division presented the results of a photometric audit to the BCC in July 2019 that determined transitioning to LED smart light systems is the superior technology because, among other things, the enhanced technology maximizes brightness thus providing more visibility and safety to residents.

FINANCIAL ANALYSIS

Table 1 below shows the contract's price schedule. The fiscal impact for the 15-year term is \$48,076,396.

Table 1

Item No.	Minimum Qty.	Unit	Description	Unit Price	Total
1	500	Each	Furnish and install video cameras-4k video with configurable framerate cameras to count vehicles, bicycles and	\$8,287.10	\$4,143,550

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			arterial traffic management (includes labor, material equipment, installation, etc).		
2	900	Each	Furnish and install Comprehensive IoT Multi-Sensor such as combined Bluetooth and Co2 Sensor (includes labor, material, equipment, installation, etc).	\$1,081.08	\$972,972
3	231	Per Mile	Fiber Optic Communication	\$185,973.48	\$42,959,873.88
Total:					\$48,076,395.88

The County will also pay the vendor \$163,591,770 for operations and maintenance over the contract term.

ADDITIONAL INFORMATION

The solicitation was advertised on September 17, 2019. The proposals were due on May 20, 2020. The recommended vendor, MDLP, signed the contract on May 14, 2021. The mayoral memo references a Disadvantaged Business Enterprise (DBE) aspirational goal of 10.65% but does not disclose the name of the DBE contractor being utilized towards this goal.

MDLP does not appear to have been awarded any previous County contracts; the company registered as a supplier in INFORMS on May 26, 2021. According to Sunbiz, this entity was incorporated on January 16, 2020. However, the Selection Committee recommendation memo indicated that MDPL is a partnership between Jacobs Engineering Group, Inc., which has an office in Miami and has been awarded over \$181 million in County contracts since 2013 (per the Business Management Workforce System), and Smart City Capital, LLC (SCC), which was incorporated in 2016 and has the same corporate officer and location as MDLP.

As far as LED technology is concerned, a photometric audit - such as the one conducted by PROS – consists of using a sensor to collect field measurements across intersections and roads. The values represented in said measurements are then calculated to show the average illuminance of each area in relation to the overall intersection or section of the road.¹

A July 2019 [news article](#) featured opponents of light-emitting diode (LED) in Miami-Dade who have complained that the new LEDs do not properly mitigate nightfall in some areas of the County. The residents' concern centered upon sections where LEDs do not properly illuminate leaving dark spots between LED bulbs that were placed about 200 feet apart from each other.

Pursuant to Ordinance No. [19-22](#), on March 5, 2019 the BCC authorized the conversion of outdated or obsolete technology across existing Special Taxing Districts with the intent to modernize the areas with a four-phase approach to replace street lights. On July 23, 2019, PROS' Special Assessment Districts Division provided the BCC with the

¹Martin S. Nabavi, *Method for Road Lighting Audit and Safety Screening at Urban Intersections*, Transportation Research Board: Journal of the Transportation Research Board, <https://journals.sagepub.com/doi/abs/10.3141/2458-04>

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results of an audit consisting of the following metrics: field inspections across South Florida cities (in Miami-Dade, Broward, and Palm Beach Counties) that had converted to LED; nationwide benchmarking on the types of street lighting being utilized; and a summary of the cost savings analysis, and the safety and glare reduction aspects. The audit found that more than 30 South Florida cities use LED including Miami, Florida City, Miami Gardens, Hollywood, Miramar, Lauderhill, West Palm Beach, Wellington, and Boynton Beach. Among the top benefits for converting to LED are the improved visibility and safety, as well as the reduction of glare. The audit also revealed that residents' concerns regarding dark spots was directly tied to the spacing of the light poles and unmaintained foliage. To address the issue, the Division recommended either adding or moving lights, changing the orientation, and providing shrubbery maintenance.

According to Energy Saver – a U.S. Department of Energy division for energy efficiency and renewable energy – LED is considered a highly energy-efficient lighting technology; LED utilizes 75% less energy yet lasts up to 25 times longer than regular bulbs.²

OCA's due diligence found the following pending litigation involving SCC:

- *SAG Harbor Advisors Inc. et. al. v. Smart City Capital LLC*; U.S. District Court, Eastern District of New York (Central Islip); Case No: 2:20-CV-05443, filed November 9, 2020. The plaintiff alleges the defendant failed to pay commissions due and owing to plaintiffs for services rendered pursuant to a December 2019 contract, including but not limited to raising debt and equity capital for the defendant's pipeline of telecom infrastructure partners. Damages are being sought in the amount of \$10,975,000. Per the latest case docket on August 16, 2021, the case is in the pre-trial stage; a stipulation and order of confidentiality was filed.

²Energy.gov, LED Lighting, U.S. Department of Energy, <https://www.energy.gov/energysaver/led-lighting>

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**Item No. 11A3
File No. 211662**

Researcher: VW & TA Reviewer: PGE

RESOLUTION DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO STUDY THE TAX DEED PROCESS AND COMPILE LIST OF RECOMMENDATIONS TO IMPROVE THE TAX DEED PROCESS INCLUDING BUT NOT LIMITED TO REQUIRING NOTICE TO PARTIES WITH A REVERSIONARY INTEREST IN REAL PROPERTY AND TO PROVIDE WRITTEN REPORT BACK TO THIS BOARD WITHIN 90 DAYS REGARDING RECOMMENDATIONS

Prime Sponsor: Senator René García

Requester: None

Committee Action Date: 7/15/2021 - County Infrastructure, Operations, and Innovations Committee (meeting cancelled); 9/16/2021 - County Infrastructure, Operations, and Innovations Committee (deferred); 10/14/2021 County Infrastructure, Operations, and Innovations Committee (forward to BCC with a favorable recommendation).

RESEARCH FINDINGS

OCA's review of the item found no substantive legislative, procedural or administrative noncompliance. See the Additional Information section for historical and other background information on the item.

FINANCIAL ANALYSIS

The item under consideration does not have a known fiscal impact.

ADDITIONAL INFORMATION

A tax deed refers to a legal instrument granting ownership of property to a government body when the owner fails to pay any associated property taxes.¹ A tax deed grants the government agency the authority to sell the property to collect any outstanding property taxes.² Such properties are usually sold at public auctions and transactions involving these properties are called "tax deed sales."³

The primary distinction to be made is between tax certificates, or tax lien certificates, and tax deeds. A tax certificate gives the bidder the right to collect interest on the delinquent property taxes ranging from 2% to 36%, depending on the property's location. The sale is conducted in a reverse auction style with participants bidding downward on interest rates. Tax certificate sales begin on June 1 of every calendar year. The purchase of a tax certificate entitles the purchaser to perform the duty of the taxing authority and collect full payment of the delinquent taxes. The lien is transferred to the highest bidder who pays the outstanding tax amount to the municipality. To remove the lien, the property owner must pay the new lien owner the outstanding amount plus interest. If the delinquent taxes are paid within the designated time set by the municipality, then the holder of the tax certificate is reimbursed their investment plus accrued interest and fees. In the event that the delinquent taxes are not paid to the holder of the tax certificate, the property can go to a tax deed auction. A tax deed entitles the purchaser to full ownership of the property. Once a tax deed is sold at a public auction, the property is transferred to the tax deed purchaser and a portion of the bid amount is used by the County to cover the property taxes due.

¹ <https://www.investopedia.com/terms/t/tax-deed.asp>

² Ibid.

³ Ibid.

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File No. 211662**

Researcher: VW & TA Reviewer: PGE

Pursuant to Florida Statute [197.502\(4\)\(h\)](#) the Tax Collector shall deliver to the Clerk of the Circuit Court a statement specifying that the following persons are to be notified prior to the tax deed sale:

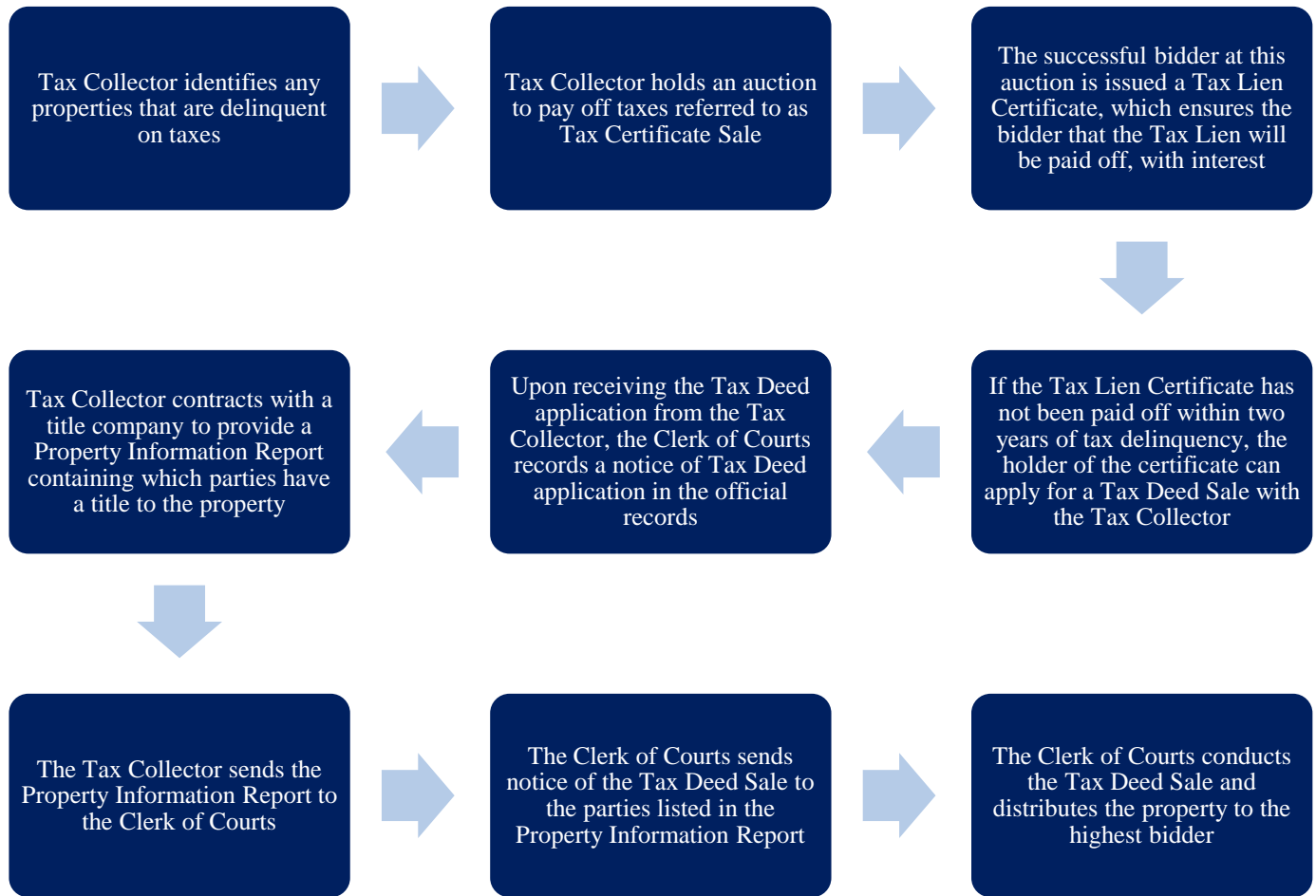
1. Any legal titleholder of record if the address of the owner appears on the record of conveyance of the property to the owner.
2. Any lienholder of record who has recorded a lien against the property described in the tax certificate.
3. Any mortgagee of record.
4. Any vendee of a recorded contract for deed.
5. Any other lienholder who has applied to the tax collector to receive notice if an address is supplied to the collector.
6. Any person to whom the property was assessed on the tax roll for the year in which the property was last assessed.
7. Any lienholder of record who has recorded a lien against a mobile home located on the property described in the tax certificate.
8. Any legal titleholder of record of property that is contiguous to the property described in the tax certificate when the property described is either submerged land or common elements of a subdivision.

Note that parties with a reversionary interest on a property are not included as parties entitled to notice under Florida law. For a property that is conveyed by the County to a private developer for the purposes of affordable or infill housing under Florida Statute [125.379](#), state law does not require the County to be provided notice of the tax deed sale; however, OCA confirmed with the County Attorney's Office that it does not preclude the right for the County to be noticed. For example, if the relevant department (Public Housing and Community Development, in the case of infill housing) was notified by the Property Appraiser that the property taxes were past due or that a tax deed sale was being scheduled, the County can provide to the developer the required notice to cure. A failure to cure would then trigger a notice of reverter of the property back to the County.

Per Florida Statute [197.502\(5\)\(a\)](#) for purposes of determining who must be notified of a pending tax deed sale, the tax collector must contract with a title company or an abstract company to provide a property information report as defined in Florida Statute [627.7843\(1\)](#). The property information report discloses all documents or information appearing in: the Official Records as described in Florida Statute [28.222](#), in the records of the Tax Collector pertaining to ad valorem real property taxes and special assessments imposed by a governmental authority against real property, in the Secretary of State filing office, or in another governmental filing office pertaining to real or personal property.

Pursuant to Florida Statute [197.522\(1\)\(a\)](#), the Clerk of the Court is required to give notice by certified mail to those persons listed in the statement provided by the Tax Collector pursuant to Florida Statute [197.502\(4\)](#). Pursuant to Florida Statute [197.502\(5\)\(a\)\(3\)\(c\)](#) a person acquiring an interest in the property after the tax deed application notice has been recorded is deemed to be on notice of the pending tax deed sale, and no additional notice is required. The sale of the property automatically releases any recorded notice of tax deed application for that property.

Figure 1 Flowchart of the Tax Deed Sale Process



It should be noted that the Certificateholder who applies for Tax Deed Sale must pay the Tax Collector all other outstanding Tax Certificates as well as delinquent and current taxes on the property. If the property is purchased by any party other than the Certificateholder, the Certificateholder will be reimbursed all sums paid, including 18% interest.

Listed below are the total number of Tax Deed sales which took place in Miami-Dade County in the previous four years:

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File No. 211662**

Researcher: VW & TA Reviewer: PGE

Calendar	Tax Deeds
Year	Sold
2018	296
2019	252
2020	273
2021	81

Based on correspondence with the Clerk of the Courts there are no active cases where a party is seeking to reverse a sale because the Tax Collector omitted their interest from the information report. The overwhelming majority of tax deed cases are resolved without the prior owner seeking to reverse a sale. Of the small percentage of cases where a prior owner seeks to reverse a sale, the primary allegation is that the prior owner did not receive notice (but they were listed on the title report). Additionally, there is a substantial amount of litigation on issues related to the forms of notice in tax deed quiet title actions and tax deed surplus distribution actions.

The County currently utilizes *Contract No. RFP 816-2(2): Title Company Services* with JGS d/b/a National Title and Abstract Company for property title search services to compile the Property Information Report. This contract expires on November 30, 2021, and will be replaced by *Contract No. RFP-01552: Title Company Services* according to the Tax Collector's Office. An award recommendation (to the incumbent) was filed with the Clerk of the Board by ISD Procurement on September 9, 2021.

The Tax Collector's Office informed OCA that the latest revisions to the Tax Deed Sale process are effective as of [October 1, 2018](#). The Tax Collector's Office was not aware of any recommended changes for future state legislative sessions.

CONTRIBUTORS

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The Office of the Commission Auditor, Miami-Dade Board of County Commissioners

The Office of the Commission Auditor (OCA) was established in September 2002 by Ordinance 03-2 to provide support and professional analysis of the policy, service, budgetary and operational issues before the Miami-Dade Board of County Commissioners. The Commission Auditor's duties include reporting to the Board of County Commissioners on the fiscal operations of County departments, as well as whether the fiscal and legislative policy directions of the Commission are being efficiently and effectively implemented.

These research notes, prepared in collaboration with the Miami Dade County departments as subject matter experts, is substantially less detailed in scope than an audit in accordance with the Generally Accepted Auditing Standards (GAAS). The OCA plans and performs the review to obtain sufficient, appropriate evidence to provide a reasonable basis for its findings and conclusions based on its objectives; accordingly, the OCA does not express an opinion on the data gathered by the subject matter expert(s).