

MEMORANDUM

Agenda Item No. 7(A)

TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE: December 1, 2009

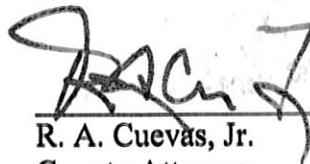
FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance creating the
Miami-Dade Housing Civil
Rights Oversight Board

Ordinance No. 09-107

The Housing and Community Development Committee amended the ordinance to reflect the new names of the County department formerly known as Office of Community and Economic Development (OCED) and the trust formerly known as Metro Miami Action Plan Trust (MMA). The OCED has been renamed "Department of Housing and Community Development" and MMA has been renamed "Miami-Dade Economic Advocacy Trust."

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



R. A. Cuevas, Jr.
County Attorney

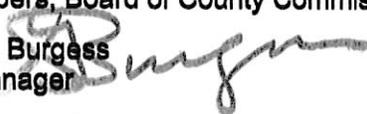
RAC/up

Memorandum



Date: December 1, 2009

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

From: George M. Burgess
County Manager 

Subject: County Manager's Report Regarding Creation of the Miami-Dade Housing Civil Rights Oversight Board

This report regarding the creation of the Miami-Dade Housing Civil Rights Oversight Board (HCROB) by ordinance is provided pursuant to Section 2-11-37 of the Code of Miami-Dade County.

Background

The proposed Ordinance would establish the Miami-Dade HCROB as a permanent body with the following responsibilities:

1. Advise the Board of County Commissioners (BCC) regarding compliance by the Miami-Dade County Public Housing Agency (MDPHA), the Department of Housing and Community Development (DHCD), formerly known as the Office of Community and Economic Development) and other County departments that administer housing programs with the Fair Housing Act and other housing-related civil rights laws, regulations, ordinances and the County's anti-discrimination policies;
2. Provide advice to the BCC, County Mayor and County Manager regarding housing discrimination issues in Miami-Dade County; and
3. Approve and provide a report annually to the BCC regarding compliance by all County departments that administer housing programs with the Fair Housing Act and other housing-related civil rights laws, regulations, ordinances and County's anti-discrimination policies.

The intent to create this board stems from the August 1, 2009 expiration of the Adker Consent Decree, which sought to achieve desegregation in the County's housing programs. Absent the Adker Consent Decree, the BCC adopted Resolution No. R-1075-09 directing staff to ensure that appropriate Adker-type safeguards are incorporated in all County-administered housing activities such as, but not limited to: 1) federally subsidized project-based and tenant-based housing programs administered by the County like public housing, Section 8 Housing Choice Voucher, and Section 8 Moderate Rehabilitation; 2) County-administered affordable housing programs funded by Documentary Surtax, Home Investment Partnership (HOME), State Housing Initiative Partnership (SHIP); and 3) the Infill Housing Initiative programs. This goal would be accomplished by including terms and conditions that prohibit the recipient of County funds from discriminating on the basis of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, or source of income in all County-funded affordable housing contracts and by maintaining the current Adker-related provisions in MDPHA's Admissions and Continued Occupancy Policy and Section 8 Administrative Plan.

The following information is required under Section 2-11-37 of the Code of Miami-Dade County:

1. **Whether the establishment of the board will create sufficient betterment to the community, to justify the Board of County Commissioners' delegation of a portion of its authority.**

The use of a citizen advisory board comprised of persons with expertise and experience in the area of civil rights and housing can assist staff, the County Mayor, and BCC in effectively ensuring

compliance with fair housing laws and other housing-related civil rights laws. More specifically, while the creation of this board will not necessarily delegate any authority from the BCC; it serves to better inform the BCC, Mayor, and Manager of how the County is complying with applicable law.

2. Whether another board of agency, either public or private, which is already in existence, could serve the same purpose.

Currently, the County's Commission on Human Rights, as renamed through Ordinance No. 09-53, is responsible to help improving the quality of life for all Miami-Dade County residents by combating discrimination in employment, housing, public accommodation, credit, and financing based on race, color, religion, national origin, gender, age, disability, marital status, familial status, sexual orientation, family leave basis and domestic violence. Furthermore, the Commission on Human Rights is to protect residents from all forms of discrimination including housing discrimination based on source of income. Complainants may also file their administrative complaints of discrimination with US HUD and the Florida Commission on Human Relations.

While the scope of the Commission on Human Rights, which is a quasi-judicial body, is designed to combat discrimination across several areas in Miami-Dade County, it does not have any jurisdiction over areas internal to Miami-Dade County government. It also has the following powers, which are not limited to:

- apply the appropriate court on behalf of the County for temporary and permanent injunctive relief to preserve the status quo or prevent irreparable harm;
- adopt, promulgate, amend and rescind rules and regulations necessary to effectuate the purposes and provisions following a public hearing and subject to approval by the County Commission;
- subpoena witnesses and production of evidence for discovery, investigation, hearing or deposition for the preservation of testimony;
- issue final orders dismissing the complaint;
- award quantifiable relief to a prevailing complainant for injuries incurred as a proximate result of an act prohibited by this chapter or to apply to the appropriate court for such an award, provided that such damages are not prohibited by state or federal law;
- award costs and Attorney's fees to a prevailing party or to apply to the appropriate court for such an award; provided, however, that such an award is not contrary to the purposes of this chapter and
- award prejudgment interest to a prevailing party upon a finding of employment discrimination and post judgment interest to a prevailing party upon a finding of any type of discrimination, or to apply to the appropriate court for such an award.

In essence, the Commission on Human Rights has enforcement powers over cases of discrimination that occur outside of Miami-Dade County government (i.e. private landlords, etc). On the other hand the Miami-Dade HCROB is not a quasi-judicial body with enforcement powers. Instead, the Miami-Dade HCROB's role and responsibilities are limited advising and referral related to the County's public and affordable housing programs. As such, the specific function to be performed by the Miami-Dade HCROB is not shared by any other existing Miami-Dade County advisory board. Prior to the proposal of this Ordinance, no such advisory board existed within the County's structure to solely address compliance with fair housing laws

3. The costs, both direct and indirect, of establishing and maintaining the board.

The ordinance relating to the Miami-Dade HCROB will not have a significant fiscal impact on Miami-Dade County if existing staff provides support services. It is recommended that staff from the Office of Community Advocacy support the Miami-Dade HCROB.

4. Whether the board is necessary to enable the County to obtain State or federal grants or other financing.

The Miami-Dade HCROB is not necessary to obtain State or federal grants or other financing.

5. Whether the board should have bonding authority.

The Miami-Dade HCROB would not have bonding authority.

6. Whether the board should have final authority to enter into contracts and spend County funds, or whether its contracts and expenditures must be ratified by the Board of County Commissioners.

The Miami-Dade HCROB would not have any authority to enter into contracts and spend County funds.

7. Whether the creation of a new board is the best method of achieving the benefit desired.

Yes. There are no existing County boards, departments, or other County entities that provide oversight of the County's housing programs for compliance with the Fair Housing Act and other civil rights laws, regulations, and ordinances.

Despite the lack of oversight, the BCC adopted Resolution No. R-1075-09 which requires a quarterly written report to the Housing and Community Development Committee, or its successor committee, that includes information and data related to the implementation of such resolution by County staff. The proposed ordinance requires Miami-Dade HCROB is to approve and provide an annual report to the BCC regarding compliance of MDPHA, DHCD, and other County departments that administer housing programs with the Fair Housing Act and other housing-related civil right laws, regulations, ordinances and the County's anti-discrimination policies. Staff recommends that County staff should provide information to the Miami-Dade HCROB on a quarterly basis which should in return should be reviewed and presented by the HCROB to the full BCC.



Cynthia W. Curry
Senior Advisor to the County Manager

Memorandum



Date: December 1, 2009

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Fiscal Impact of ordinance creating the Miami-Dade Housing Civil Rights Oversight Board

The proposed ordinance creating the Miami-Dade Housing Civil Rights Oversight Board, will result in a fiscal impact of approximately \$5,500 annually, related to additional miscellaneous operating expenses to the Office of Community Advocacy that include printing and postage expenses, and parking reimbursement for board members.


Senior Advisor

fls01310



MEMORANDUM
(Revised)

TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE: December 1, 2009

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

SUBJECT: Agenda Item No. 7(A)

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 Manager'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

Agenda Item No. 7 (A)

Veto _____

12-1-09

Override _____

ORDINANCE NO. 09-107

ORDINANCE CREATING THE MIAMI-DADE HOUSING CIVIL RIGHTS OVERSIGHT BOARD, SETTING FORTH PURPOSE, COMPOSITION OF BOARD, SPECIFYING POWERS, DUTIES, AND RESPONSIBILITIES, PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, a class action lawsuit was filed by public housing residents against Miami-Dade County (County) and the United States Department of Housing and Urban Development (HUD) in the case of *Adker v. United States Department of Housing and Urban Development and Miami-Dade County* (“*Adker*”); and

WHEREAS, the Plaintiffs in *Adker* sought to desegregate the County’s Section 8, public housing and other housing programs administered by the County; and

WHEREAS, on July 22, 1997, the Board adopted Resolution No. R-950-97, which authorized the County to execute the *Adker* Settlement Agreement and Consent Decree; and

WHEREAS, on June 6, 1998, the federal district court entered the consent decree (“Decree”) ordering the County and HUD to achieve desegregation in the County’s housing programs in compliance with the terms and conditions of the Decree; and

WHEREAS, the Decree expired on August 1, 2009; and

WHEREAS, notwithstanding the expiration of the Decree, it remains the policy of the Miami Dade Board of County Commissioners (“Board”), in the exercise of its police power for the public safety, health and general welfare, to eliminate and prevent discrimination in housing

because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, or source of income; and

WHEREAS, it is the Board's policy to also eliminate and prevent housing discrimination in all County-administered housing programs; and

WHEREAS, this Board finds that the goals of the Decree of creating desegregative opportunities in the County's housing programs, including public housing, the Section 8 Housing Choice Voucher program, the Section 8 Moderate Rehabilitation program, and other federal, state and local housing programs administered by the County, has been accomplished; and

WHEREAS, this Board also finds that notwithstanding the expiration of the Decree, the County must make it a priority to always housing opportunities to the residents of Miami-Dade County without consideration of their race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, or source of income; and

WHEREAS, this Board finds that it is important to establish an oversight board that can serve as an advisory board to the this body and provide oversight and review of the various County departments administering housing programs to ensure compliance with the fair housing laws, regulations, ordinances and this Board's anti-discrimination policies; and

WHEREAS, the Board has established regulations regarding County boards as codified at 2-11.36 et seq. of the Miami-Dade County Code,

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

Section 1. Creation and Purpose. There is hereby created the advisory board called the “Miami-Dade Housing Civil Rights Oversight Board” (hereinafter “Oversight Board”). The purpose of the Oversight Board is to monitor the compliance with the Fair Housing Act and other housing-related civil rights laws, regulations, ordinances and the County’s anti-discrimination policies by the Miami-Dade Public Housing Agency, the ~~[[Office of]]~~¹ >>Department of Housing and<< Community ~~[[and Economic]]~~ Development, and other County departments which administer housing programs and to report on such compliance to the Board of County Commissioners annually.

Section 2. The Board Composition

The Oversight Board shall consist of ten (10) members as follows:

(1) Four (4) members shall be appointed by the Board of County Commissioners.

(2) One (1) representative of each of the following organizations: (a) Housing Opportunities Project for Excellence, Inc., and (b) Overall Tenant Advisory Council, Inc.

(3) One (1) representative from the following County departments: (a) Miami-Dade Commission on Human Rights, (b) Miami-Dade Public Housing Agency, (c) the ~~[[Metro Miami Action Plan]]~~>>Miami-Dade Economic Advocacy Trust<<, and (d) the ~~[[Office of]]~~ >>Department of Housing and<< Community ~~[[and Economic]]~~ Development.

Section 3. Terms, Reappointment, Vacancies and Attendance.

¹ Committee amendments are indicated as follows: words double stricken through and/or ~~[[double bracketed]]~~ shall be deleted, words double underlined and/or >>double arrowed<< constitute the amendment proposed.

(a) All members shall serve two-year terms, except that the length of the terms of the initial appointees shall be adjusted to stagger the terms.

(b) A member may be reappointed; however, a member may not serve more than four (4) consecutive terms. A member who has served four (4) consecutive terms is eligible to be appointed again after a two-year hiatus from the Oversight Board.

(c) A member may be removed for failure to comply with the attendance requirements set out in Section 2-11.39 of the Code of Miami-Dade County, Florida as amended, or for any other reason as established in the Oversight Board Bylaws.

Section 4. Organization, Procedure and Orientation.

(a) Bylaws. The Oversight Board shall make and adopt bylaws for its guidance, operation, governance and maintenance, provided such bylaws, and any amendments thereto, are consistent with federal and state laws and county ordinances, rules, regulations, policies and procedures and have been approved for form and legal sufficiency by the County Attorney's Office.

(b) Officers. Immediately after the members are appointed, the members of the Oversight Board shall elect a chair, a vice chair and other officers as designated in the bylaws. Officers shall be elected for a two-year term.

(c) Committees. The Oversight Board may establish through its bylaws such committees as it considers necessary to address the core mission of the Oversight Board. The bylaws shall also allow for the creation of ad hoc committees as necessary.

(d) Meetings.

(1) Meetings shall be conducted upon the call of the chairperson; however, the Oversight Board shall meet on a regular basis as determined in the bylaws during the County's

fiscal year.

(2) All Oversight Board meetings must be timely noticed at least seven (7) but not more than thirty (30) days prior to the meeting. Such notice shall be provided to the media and a copy shall be maintained at the Miami-Dade Commission on Human Rights. However, if immediate action is necessary to address a matter of imminent harm to public health, safety and welfare, the Oversight Board may schedule a meeting with no less than twenty-four (24) hours notice.

(3) Minutes shall be kept of all meetings of the Oversight Board and such minutes shall be available for inspection by any interested person.

(4) All meetings shall be open to the public.

(e) Quorum. A quorum of the Oversight Board shall be one-half of the total number of members seated on the Oversight Board plus one.

(f) Inquiries and Communications. All inquiries or communications from the Oversight Board or any of its members to the Miami-Dade Commission on Human Rights or to the County shall be made through the Chair of the Oversight Board. Informal communications may be made freely from the Miami-Dade Commission on Human Rights to the Oversight Board members, in a manner that is consistent with the Sunshine Law.

(g) Orientation. All new members of the Oversight Board shall receive sufficient training and orientation to enable them to perform their duties.

Section 5. Powers and Duties.

The Oversight Board shall have the following powers and duties:

(1) To advise the Board of County Commissioners regarding compliance by the Miami-Dade County Public Housing Agency, the Miami-Dade County the ~~[[Office of]]~~

>>Department of Housing and<< Community [~~and Economic~~] Development and other County departments that administer housing programs with the Fair Housing Act and other housing-related civil rights laws, regulations, ordinances and the County's anti-discrimination policies;

(2) To provide advice to the Board of County Commissioners, the Mayor and the County Manager regarding housing discrimination issues in Miami-Dade County;

(3) To approve and provide a report annually to the Board of County Commissioners regarding compliance of the Miami-Dade Public Housing Agency, the Miami-Dade County [~~Office of~~] >>Department of Housing and<< Community [~~and Economic~~] Development, and other County department that administer housing programs with the Fair Housing Act and other housing-related civil rights laws, regulations, ordinances and the County's anti-discrimination policies;

Section 6. Applicability of Federal, State and County Laws.

The Oversight Board shall be subject to and governed by: Chapter 286 of Florida Statutes, ("Sunshine Law"); Chapter 119 of Florida Statutes ("Public Records Act"); Chapter 112, Part III of Florida Statutes ("Code of Ethics for Public Officers and Employees"); Section 2-11.1 of Miami-Dade County Code ("Conflict of Interest and Code of Ethics Ordinance"); Article IB of Miami-Dade County Code ("Standards for Creation and Review of Boards Generally") and the Home Rule Charter.

Section 7. Staff Support.

The County Manager's Office shall designate appropriate staff to support the Oversight Board.

Section 8. Legal Counsel.

The County Attorney's Office shall provide legal counsel, as needed, to the Oversight Board.

Section 9. It is the intention of the Board of County Commissioners that this ordinance shall supersede and replace any previous ordinance, resolution, bylaws or other enactment by the Board of County Commissioners with regard to the Oversight Board.

Section 10. 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 11. 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 re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section, "article", or other appropriate word.

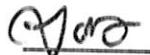
Section 12. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED: **December 1, 2009**

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Terrence A. Smith
Eric Rodriguez

Prime Sponsor: Commissioner Barbara J. Jordan