

MEMORANDUM

Agenda Item No. 11(A)(18)

TO: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

DATE: October 5, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution directing the County Mayor to require developers, borrowers, lessees, and grantees to establish reserve accounts to address repair and maintenance issues related to the 40-year or an equivalent recertification process as a condition of receiving County affordable housing funds or County properties for the purpose of developing such properties with multifamily affordable or workforce housing; requiring that the County’s advertised solicitations, loan funding agreements, grant agreements, leases, and deeds require such reserve accounts as a condition of approval; urging all developers, borrowers, lessees, and grantees who have received funds or County-owned property prior to the effective date of this resolution to establish such reserve accounts; and requiring a report

This item was amended at the 9-16-21 County Infrastructure, Operations and Innovations Committee to clarify that the term “lessee” does not apply to tenants who have residential leases in affordable and workforce housing developments that receive subsidies or incentives from the County, and to further to clarify that the resolution applies to the 40-year or an equivalent recertification process, and subsequent recertification processes and makes conforming changes to the title.

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Raquel A. Regalado.



Geri Bonzon-Keenan
County Attorney


GBK/uw



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: October 5, 2021

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Gen Bonzon-Keenan
County Attorney

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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
- Statement of social equity 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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) 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. 11(A)(18)
10-5-21

RESOLUTION NO. _____

RESOLUTION DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO REQUIRE DEVELOPERS, BORROWERS, LESSEES, AND GRANTEES TO ESTABLISH RESERVE ACCOUNTS TO ADDRESS REPAIR AND MAINTENANCE ISSUES RELATED TO THE 40-YEAR OR AN EQUIVALENT RECERTIFICATION PROCESS AS A CONDITION OF RECEIVING COUNTY AFFORDABLE HOUSING FUNDS OR COUNTY PROPERTIES FOR THE PURPOSE OF DEVELOPING SUCH PROPERTIES WITH MULTIFAMILY AFFORDABLE OR WORKFORCE HOUSING; REQUIRING THAT THE COUNTY'S ADVERTISED SOLICITATIONS, LOAN FUNDING AGREEMENTS, GRANT AGREEMENTS, LEASES, AND DEEDS REQUIRE SUCH RESERVE ACCOUNTS AS A CONDITION OF APPROVAL; URGING ALL DEVELOPERS, BORROWERS, LESSEES, AND GRANTEES WHO HAVE RECEIVED FUNDS OR COUNTY-OWNED PROPERTY PRIOR TO THE EFFECTIVE DATE OF THIS RESOLUTION TO ESTABLISH SUCH RESERVE ACCOUNTS; AND REQUIRING A REPORT

WHEREAS, as per the County Code, with certain exceptions, buildings in unincorporated and incorporated areas in Miami-Dade County that are at least 40 years old must be recertified to ensure their structural and electrical safety, and after the initial 40-year recertification, such buildings must be recertified every ten years thereafter; and

WHEREAS, single-family homes, duplexes, and buildings that have an occupant load of 10 or less and 2,000 square feet or less are exempt from the 40-year recertification requirement; and

WHEREAS, recertification inspections must be performed by licensed architects or engineers, who look at many aspects of each building's structure and electrical systems, including foundation, roofing systems, masonry bearing walls, steel frames, flooring, concrete framing systems, windows, wood framing, loading, electrical service, branch circuits, conduit raceways, and emergency lighting; and

WHEREAS, On June 24, 2021, the Champlain Towers South, a 12-story beachfront condominium in Surfside, Florida, partially collapsed; and

WHEREAS, to date, there are a total of 98 confirmed fatalities; and

WHEREAS, at the time of the disaster, Champlain Towers South was in the process of its 40-year recertification, and engineering reports determined that costly repairs were needed to make the condominium building safe and compliant with the applicable codes; and

WHEREAS, it has been reported that the estimated cost of the repairs needed to comply with the 40-year recertification was \$15,000,000.00; and

WHEREAS, this cost would have been borne by the condominium unit owners; and

WHEREAS, this tragedy highlights that costly repairs can be delayed for financial reasons, endangering lives; and

WHEREAS, this tragedy also highlights that more can be done to ensure that low-income families, the elderly, the disabled, and other vulnerable populations are not burdened with the high costs associated with the 40-year recertification; and

WHEREAS, the County relies heavily on its partnerships with the public and private sectors to acquire, construct, and rehabilitate affordable or workforce housing developments by providing incentives through programs such as State Housing Initiative Partnership, Documentary Stamp Surtax, HOME Investment Partnerships, Community Development Block Grant, Building Better Communities General Obligation Bond programs, and other affordable or workforce housing programs, as well as through the conveyance or leasing of County-owned properties to construct or rehabilitate such properties with multifamily affordable or workforce housing developments (collectively, “affordable housing program incentives”); and

WHEREAS, without the private sector’s assistance and involvement, many residents of Miami-Dade County would not and could not afford housing in Miami-Dade County; and

WHEREAS, this Board believes that developers, borrowers, >>lessees, who lease County-owned properties (excluding the residents of any affordable or workforce housing acquired, constructed or rehabilitated through one or more of the affordable housing incentives),<<¹ and grantees who receive affordable housing program incentives should provide decent, safe, and sanitary housing for their residents; and

WHEREAS, considering the costs associated with the repair and maintenance of older buildings, this Board wishes to require developers, borrowers, >>lessees,<< and grantees who receive affordable housing program incentives to establish reserve accounts to cover the cost of repairs or other maintenance issues arising from the 40-year >>or an equivalent recertification process,<< and subsequent recertification processes; and

WHEREAS, specifically, this Board believes that the budget for each development receiving affordable housing incentives should be required to include reserve accounts for capital expenditures and deferred maintenance, which such accounts should include, but are not limited to, roof replacement, building painting and waterproofing, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the deferred maintenance expense or replacement cost exceeds or is expected to exceed \$10,000.00, and is consistent with the underwriting requirements of lenders, investors, County underwriters and/or Florida Housing Finance Corporation; and

WHEREAS, this Board further believes that the amount to be reserved should be computed by means of a formula which is based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item; and

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

WHEREAS, further, this Board wishes to urge all developers, borrowers, >>lessees,<< and grantees who have received funds or other incentives through the County's affordable housing programs prior to the effective date of this resolution to establish such reserve accounts, if they have not done so already,

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

Section 1. The foregoing recitals are incorporated in this resolution and are approved.

Section 2. This Board directs the County Mayor or County Mayor's designee, to require developers, borrowers, >>lessees, who lease County-owned property (excluding the residents of any affordable or workforce housing acquired, constructed or rehabilitated through one or more of the affordable housing incentives),<< and grantees, as a condition of receiving County affordable housing program incentives, to establish and fully fund reserve accounts for capital expenditures and deferred maintenance, which such accounts should include, but are not limited to, roof replacement, building painting and waterproofing, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the deferred maintenance expense or replacement cost exceeds or is expected to exceed \$10,000.00, and is consistent with the underwriting requirements of lenders, investors, County underwriters and/or Florida Housing Finance Corporation, to address issues related to the 40-year recertification>>or an equivalent recertification process,<< and subsequent recertification processes. This Board further directs the County Mayor or County Mayor's designee to include, in the County's advertised solicitations, loan funding agreements, grant agreements, leases >>(excluding residential leases),<< and deeds associated with any of the County's affordable housing incentives, provisions that require all developers, borrowers, grantees, and lessees to establish a reserve account to fund the repairs and maintenance costs associated with the 40-year

recertification>>or an equivalent recertification process,<< and >>subsequent<< [~~any other~~]
recertification processes. This Board further authorizes the County Mayor or County Mayor's
designee, at their sole option, to require, as a condition of the County consenting to a subsequent
loan or grant or subordination of such loan or grant, that each developer, borrower, >>lessee,<<
or grantee comply with this resolution.

Section 3. This Board urges all developers, borrowers, >>lessees,<< and grantees who
have received affordable housing program incentives from the County prior to the effective date
of this resolution to establish the reserve accounts that are described in section 2.

Section 4. This Board directs the County Mayor or County Mayor to post or otherwise
make this resolution available on the County's website, including, but not limited to, the website
for the Miami-Dade Public Housing and Community Development Department.

Section 5. This Board directs the County Mayor or County Mayor's designee to
provide a written report detailing each developer, borrower, >>lessee,<< and grantee's compliance
with this resolution. The County Mayor or County Mayor's designee shall provide the report to
this Board within five years of the effective date of this resolution and every five years thereafter.
The completed reports shall be placed directly on an agenda of this Board without committee
review pursuant to Ordinance No. 14-65.

The Prime Sponsor of the foregoing resolution is Commissioner Raquel A. Regalado. It
was offered by Commissioner _____, who moved its adoption. The motion
was seconded by Commissioner _____ and upon being put to a vote, the vote
was as follows:

Jose "Pepe" Diaz, Chairman
Oliver G. Gilbert, III, Vice-Chairman
Sen. René García
Sally A. Heyman
Eileen Higgins
Kionne L. McGhee
Raquel A. Regalado
Sen. Javier D. Souto
Keon Hardemon
Danielle Cohen Higgins
Joe A. Martinez
Jean Monestime
Rebeca Sosa

The Chairperson thereupon declared this resolution duly passed and adopted this 5th day of October, 2021. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Terrence A. Smith
Dennis A. Kerbel