

MEMORANDUM

Agenda Item No. 7(C)

TO:	Honorable Chairman Jose "Pepe" Diaz and Members, Board of County Commissioners	DATE:	(Second Reading: 7-7-22) April 5, 2022
FROM:	Geri Bonzon-Keenan County Attorney	SUBJECT:	Ordinance related to County liens; creating section 17-04 of the Code; providing for forgiveness of certain County liens recorded against County- owned properties that are conveyed to a public or private entity for the purpose of developing such property with affordable or workforce housing in accordance with sections 125.379 and 125.38, Florida Statutes; providing for a process to satisfy County liens; providing for certain exceptions

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Keon Hardemon and Co-Sponsor Commissioner Eileen Higgins.


Geri Bonzon-Keenan
County Attorney

GBK/smm

Memorandum



Date: July 7, 2022

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

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Subject: Fiscal Impact Statement for Ordinance Related to Forgiving County Liens on Affordable and Workforce Housing - File No. 220720

The proposed ordinance forgives County liens on affordable or workforce housing. This could potentially reduce the amount of revenues generated by the Department of Regulatory and Economic Resources, but the actual amount cannot be estimated at this time due to the multiple types of financing across the market.

A handwritten signature in blue ink that reads "Morris Copeland".

Morris Copeland
Chief Community Services Officer

Memorandum



Date: July 7, 2022

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

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Subject: Social Equity Statement for Ordinance Creating Section 17-04 of the Code Related to Forgiving County Liens on Affordable and Workforce Housing - File No. 220720

The proposed ordinance creates Section 17-04 of the Code of Miami-Dade County; provides for forgiveness of certain County liens recorded against County-owned properties that were conveyed to a public or private entity for the purpose of developing affordable or workforce housing in accordance with Sections 125.379 and 125.38, Florida Statutes; provides for a process to satisfy County liens; and provides for certain exceptions.

The proposed ordinance is anticipated to provide a public benefit as it would allow the removal of County liens in a manner similar to what is permitted under the Infill and Workforce Housing Programs, and thereby facilitate development of affordable and workforce housing units on smaller lots. Such lots, if not developed, are prone to become blighted properties to the detriment of the surrounding community. Alternatively, developing these lots with housing enhances the livability and aesthetics of the neighborhood, adds value to the properties in the area, provides for additional property tax revenue for the County, and of course, provides much needed housing that is affordable.

A handwritten signature in blue ink that reads "Morris Copeland".

Morris Copeland
Chief Community Services Officer



MEMORANDUM

(Revised)

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

DATE: July 7, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(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
- ☐ 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. 7(C)
7-7-22

ORDINANCE NO. _____

ORDINANCE RELATED TO COUNTY LIENS; CREATING SECTION 17-04 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR FORGIVENESS OF CERTAIN COUNTY LIENS RECORDED AGAINST COUNTY-OWNED PROPERTIES THAT ARE CONVEYED TO A PUBLIC OR PRIVATE ENTITY FOR THE PURPOSE OF DEVELOPING SUCH PROPERTY WITH AFFORDABLE OR WORKFORCE HOUSING IN ACCORDANCE WITH SECTIONS 125.379 AND 125.38, FLORIDA STATUTES; PROVIDING FOR A PROCESS TO SATISFY COUNTY LIENS; PROVIDING FOR CERTAIN EXCEPTIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, to increase the supply of affordable and workforce housing, this Board has authorized the conveyance of County-owned properties to public or private entities in accordance with sections 125.379 or 125.28, Florida Statutes; and

WHEREAS, section 125.379 requires each county to prepare an inventory list at least every three years of all real properties that are appropriate for use as affordable housing and further allows the governing body of the respective counties to revise the inventory list upon conclusion of a public hearing held before the governing body; and

WHEREAS, section 125.379 further provides that after the public hearing a county may:

(1) offer the inventoried properties for sale and use the proceeds to purchase land for the development of affordable housing or to increase the local government fund earmarked for affordable housing; (2) sell the properties with restrictions that require the development of the properties as permanent affordable housing; (3) donate the properties to a nonprofit housing

organization(s) for the construction of permanent affordable housing; or (4) otherwise make the properties available for use for the production and preservation of permanent affordable housing; and

WHEREAS, section 125.38 provides that if the United States, or any department or agency thereof, the state or any political subdivision or agency thereof, or any municipality of this state, or corporation or other organization not for profit which may be organized for the purposes of promoting community interest and welfare, should desire any real or personal property that may be owned by the County, for public or community interest and welfare, then such entities may apply to this Board for a conveyance or lease of such property; and

WHEREAS, section 125.38 further permits this Board, if satisfied that such properties are required for such use and is not needed for County purposes, may thereupon convey or lease the properties at a private sale to the applicants for such price, whether nominal or otherwise, as this Board may fix, regardless of the actual value of such property; and

WHEREAS, section 2-8.6.5(4) of the Code of Miami-Dade County, Florida (the “Code”) further requires that all conveyances to not-for-profit entities for a public purpose or community interest and welfare under section 125.38, as may be amended from time to time, shall be by lease and not by deed unless this Board adopts a resolution by a two-thirds vote of Board members waiving the requirements set forth therein and finding that a compelling circumstance exists for conveyance of County property to a not-for-profit entity by deed; and

WHEREAS, there is a high demand for more affordable and workforce housing in Miami-Dade County, which, according to many studies, is one of the least affordable places to live in the United States; and

WHEREAS, this Board believes that, when possible, it should remove barriers or impediments that may prevent the construction or rehabilitation of affordable and workforce housing; and

WHEREAS, in accordance with section 125.0411, Florida Statutes, all deeds of conveyance by the County or this Board shall convey only the interest of the County and this Board in the properties covered by such deeds, and shall not be deemed to warrant the title or to represent any state of facts concerning same; and

WHEREAS, accordingly, because the County does not warrant title, the County properties that are conveyed to public or private entities in accordance with sections 125.379 or 125.38, the County has no obligation to remove certain encumbrances recorded against such properties, including, but not limited to liens recorded by the County; and

WHEREAS, however, this Board established the Infill Housing Initiative Program (“Infill Program”), which is codified in chapter 17, article VII of the Code for the purpose of increasing the availability of affordable homes for very low-, low- and moderate-income persons, maintaining a stock of affordable housing, redeveloping urban neighborhoods by eliminating the blight of vacant lots and dilapidated or abandoned properties to equitably distribute homeownership opportunities within, and in some cases outside of the infill target areas, and generating payment of ad valorem taxes; and

WHEREAS, one of the incentives provided to developers who wish to participate in the Infill Program is the forgiveness of County liens; and

WHEREAS, specifically, section 17-126 of the Code of Miami-Dade County, Florida authorizes the County Mayor or County Mayor’s designee to forgive certain County liens after the homes are built and sold to qualified households; and

WHEREAS, this Board desires to authorize the County Mayor or County Mayor's designee to forgive certain County liens that encumber County properties that have been identified by this Board as suitable for affordable or workforce housing whether for sale or rental, and that are conveyed to private or public entities in accordance with section 125.379 or 125.38, Florida Statutes, for this purpose,

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

Section 1. Section 17-04 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:

ARTICLE I – GENERAL

* * *

Sec. 17-04. - Forgiveness of County liens.

(a) (1) Notwithstanding any other provision contained in the Code of Miami-Dade County, Florida (the "Code"), the County Mayor or County Mayor's designee may release or satisfy any County lien placed on a County owned property if: (i) the property has been approved by the Miami-Dade Board of County Commissioners for affordable or workforce housing development; (ii) the property has been conveyed by the County to a private or public entity in accordance with sections 125.379 or 125.38, Florida Statutes; (iii) such entity intends to and does develop the County property with affordable or workforce housing to be rented or sold to eligible households; and (iv) such entity applies to the County for a release of the County liens and citations after the sale or rental of the units constructed on the County property to eligible households. For purposes of this ordinance the term "eligible households" shall mean an individual or household whose income does not exceed 120 percent of area median income as published by the United States Department of Housing and Urban Development or the Florida Housing Finance Corporation.

(2) County liens which may be released or satisfied by the County include, but are not limited to, civil restitution liens; code enforcement liens; demolition liens; hospital liens; judgment liens; lot clearing liens; minimum housing standard liens; mortgage liens; nuisance abatement liens; public defender liens; stormwater utility liens; waste liens; water and sewer liens; and welfare liens. The provisions of this section do not pertain to ad valorem tax liens or privately-held tax certificates nor do they pertain to special assessment liens as defined in Article 1, Section 1.01(A)(11) of the Miami-Dade County Home Rule Charter and in Section 18-14 of the Code.

(b) The satisfaction or release of the County lien(s) shall be recorded in the Official Records of Miami-Dade County, Florida.

(c) Notwithstanding any provision set forth in this section, the County Mayor or the County Mayor's designee shall not release or satisfy any County liens for correctable violations that have not been corrected, or any County liens on a property owned by the person whose actions resulted in the County liens being placed on the property. Further, the County or County Mayor's designee shall not release or forgive any County liens on a property owned by the immediate family or a firm, corporation, partnership, or business entity of a person whose actions resulted in the liens being placed on the property. For purposes of this section, "person" shall mean any individual, business, corporation, partnership, firm, organization, or other type of entity. For purposes of this section, "immediate family" shall mean spouse, domestic partner, parents, stepparents, children, and stepchildren of the person involved.

(d) The release of a County lien under this section does not prohibit the County from collecting a fee and the sum underlying the lien by other legal means.

Section 2. 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 3. 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 4. 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:

Approved by County Attorney as
to form and legal sufficiency:

GKS for GBK

Prepared by:

ASA

Terrence A. Smith

Prime Sponsor: Commissioner Keon Hardemon
Co-Sponsor: Commissioner Eileen Higgins