

MEMORANDUM

Amended
Agenda Item No. 11(A)(11)

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

DATE: January 21, 2021

FROM: Geri Bonzon-Keenan
Successor County Attorney

SUBJECT: Resolution urging the Clerk of the Courts of Miami-Dade County, Florida to provide on a monthly basis quantitative and qualitative data associated with pending residential and commercial evictions from the Odyssey Case Manager System to the Commission Auditor; directing the County Mayor to provide monthly reports on the number of residential and commercial writs of possession that have been recorded and/or executed by the Miami-Dade Police Department; and directing the Commission Auditor to provide monthly reports to the Board

Resolution No. R-58-21

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



Geri Bonzon-Keenan
Successor County Attorney

GBK/smm



MEMORANDUM

(Revised)

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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	Amended
Veto _____		Agenda Item No. 11(A)(11)
Override _____		1-21-21

RESOLUTION NO. R-58-21

RESOLUTION URGING THE CLERK OF THE COURTS OF MIAMI-DADE COUNTY, FLORIDA TO PROVIDE ON A MONTHLY BASIS QUANTITATIVE AND QUALITATIVE DATA ASSOCIATED WITH PENDING RESIDENTIAL AND COMMERCIAL EVICTIONS FROM THE ODYSSEY CASE MANAGER SYSTEM TO THE COMMISSION AUDITOR; DIRECTING THE COUNTY MAYOR OR THE COUNTY MAYOR’S DESIGNEE TO PROVIDE MONTHLY REPORTS ON THE NUMBER OF RESIDENTIAL AND COMMERCIAL WRITS OF POSSESSION THAT HAVE BEEN RECORDED AND/OR EXECUTED BY THE MIAMI-DADE POLICE DEPARTMENT; AND DIRECTING THE COMMISSION AUDITOR TO PROVIDE MONTHLY REPORTS TO THE BOARD

WHEREAS, the coronavirus disease 2019 (“COVID-19”) pandemic has resulted in an economic crisis, which includes, but is not limited to, record unemployment; and

WHEREAS, as a result, many Miami-Dade residents and business owners are struggling to make ends meet, and are unable to pay for basic necessities such as rent and food; and

WHEREAS, on April 2, 2020, the Governor issued Executive Order 20-94, which, in part, suspended and tolled “any statute providing for an eviction cause of action under Florida law solely as it relates to non-payment of rent by residential tenants due to the COVID-19 emergency for 45 days from the date of the executive order, including any extensions”; and

WHEREAS, on May 14, 2020, the Governor issued Executive Order 20-121, which extended Executive Order 20-94 until June 2, 2020; on June 1, 2020, the Governor issued Executive Order No. 20-137, which further extended Executive Order No. 20-94 until July 1, 2020; on June 30, 2020, the Governor issued Executive Order 20-159, which further extended Executive Order 20-94 until August 1, 2020; and on July 29, 2020, the Governor issued Executive Order 20-180, which further extended Executive Order 20-94 until September 1, 2020; and

WHEREAS, Executive Order No. 20-180 also: (1) suspended and tolled any statute providing for final action at the conclusion of a mortgage foreclosure proceeding under Florida law solely when the proceeding arises from nonpayment of mortgage by a single-family mortgagor adversely affected by the COVID-19 emergency; (2) suspended and tolled any statute providing for final action at the conclusion of an eviction proceeding under Florida law solely when the proceeding arises from non-payment of rent by a residential tenant adversely affected by the COVID-19 emergency; and (3) clarified which property owners and renters were covered by the executive order—to wit—any property owner or renter who was adversely affected by the COVID-19 emergency, including through the loss of employment, diminished wages or business income, or other monetary loss realized during the Florida State of Emergency directly impacting their ability to make their mortgage or rent payments, respectively; and

WHEREAS, on August 31, 2020, the Governor issued Executive Order 20-211, which extended Executive Order 20-180 until October 1, 2020; and

WHEREAS, the Governor has since allowed Executive Order 20-211 to expire; and

WHEREAS, the Chief Justice of the Florida Supreme Court and the Chief Judge of the Eleventh Judicial Circuit of Florida also adopted administrative orders that automatically delayed or stayed the issuances of writs of possession associated with residential eviction actions at the time the Governor and the County Mayor issued their declarations of emergency; and

WHEREAS, on May 12, 2020, the Chief Judge of the Eleventh Judicial Circuit of Florida, in an effort to comply with the requirements of the 2020 Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) issued an administrative order extending the time for evictions of residents who reside in dwelling units covered by the CARES Act, including, but not limited to public housing, until August 23, 2020, which such date was subsequently extended to November 1, 2020; and

WHEREAS, the administrative order requires that all plaintiffs in residential eviction cases for nonpayment of rent or other fees or charges, filed on or after March 27, 2020, shall file a declaration under penalty of perjury verifying whether or not the property of which the eviction case is seeking to recover possession has a federally backed mortgage loan, a federally backed multifamily mortgage loan, or is otherwise a “covered dwelling” under the CARES Act; and

WHEREAS, on June 17, 2020, the federal government announced that it would extend until August 31, 2020 the moratorium on evictions and foreclosures of persons from Federal Housing Administration-insured single family properties, which ceases evictions, halts new foreclosure actions and suspends foreclosure actions currently in process for such units, excluding legally vacant or abandoned properties; and

WHEREAS, further, on September 1, 2020, the Centers for Disease Control and Prevention issued an agency order titled “Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19” (the “CDC order”), which went into effect on September 4, 2020; and

WHEREAS, the CDC order, which was set to expire on December 31, 2020, prohibits residential landlords nationwide from evicting certain tenants and protects tenants who:

- (1) have used their best efforts to obtain government assistance for housing;
- (2) are unable to pay their full rent due to a substantial loss of income;
- (3) are making their best efforts to make timely partial payments of rent; and
- (4) are at risk of becoming homeless or have to move into a shared living setting if they were to be evicted; and

WHEREAS, in addition to the above requirements, one of the following financial criteria must be met by tenants seeking protection under the CDC order:

- (1) tenants must expect to earn no more than \$99,000.00 for individuals or \$198,000.00 for those filing joint tax returns in 2020;
- (2) tenants must not have been required to report any income to the Internal Revenue Service in 2019; or
- (3) tenants must have received an economic impact payment (stimulus check) pursuant to section 2201 of the CARES Act; and

WHEREAS, tenants must also complete a declaration under penalty of perjury that they meet the criteria listed in the CDC order; and

WHEREAS, on December 27, 2020, President Trump signed the Consolidated Appropriations Act, 2021, which, in part, extended the CDC order until January 31, 2021; and

WHEREAS, notwithstanding the extraordinary steps the federal, state and local governments, including the courts, have taken to protect renters from eviction during the declarations of emergency, Miami-Dade County, like many other areas in the country, may face the most severe housing crisis in its history; and

WHEREAS, in particular, communities of color are disproportionately rent-burdened and at risk of eviction, twice as likely to be renters, and are disproportionately likely to be low-income and rental cost-burdened; and

WHEREAS, according to the Aspen Institute Financial Security Program and the COVID-19 Eviction Defense Project, it is anticipated that in Florida between 31 percent and 45 percent of renters are at risk of eviction, which constitutes between 818,000 and 1,110,000 households or between 1,882,000 and 2,553,000 people; and

WHEREAS, although there has been funding provided to certain businesses during the COVID-19 pandemic, none of the measures taken by the federal, state and local governments have prevented commercial evictions from moving forward; and

WHEREAS, this Board believes that before it can take meaningful steps to address the looming eviction crisis, it must first have a clearer picture of the number of residential and commercial eviction actions pending in the courts in Miami-Dade County; and

WHEREAS, the Clerk of the Courts of Miami-Dade County, Florida (“Clerk of Courts”) has implemented the Odyssey Case Manager System (“Odyssey”), which is a case maintenance/management system of record developed by Tyler Technologies, Inc. for the Eleventh Judicial Circuit Court and the Clerk of Courts; and

WHEREAS, Odyssey provides electronic court records and document management through the use of workflows, queues, and tasks; and

WHEREAS, this integrated system allows documents filed through the Florida Courts eFiling Portal to flow seamlessly into Odyssey; allows the Clerk of Courts to maintain cases and electronic court documents using refined business workflows, queues and tasks; allows the court to manage cases, calendars and hearings; and provides attorneys with online access to civil case information and document images through the internet; and

WHEREAS, in August, 2020, Odyssey was modified to separate residential from commercial eviction filings, and as a result, Odyssey has been able to ascertain that from September 1, 2020 to January 7, 2021, there were approximately 4,893 residential eviction cases filed and between March 13, 2020 and January 7, 2021 there were approximately 7,793 residential and non-residential eviction cases filed; and

WHEREAS, further, from March 13, 2020 through November 15, 2020 there were 990 writs of possession in both residential and commercial eviction cases issued by the court; and

WHEREAS, there is a need to collect and analyze the quantitative and qualitative data associated with residential and commercial evictions, both COVID-19 related and pre-COVID-19 related, to determine, as policymakers, the best way this Board and the Miami-Dade Homeless Trust (“Homeless Trust”) can assist the residents of Miami-Dade County affected by the pandemic; and

WHEREAS, this Board believes that it and the Homeless Trust should receive reports monthly that analyze the data received from the Clerk of Courts because such data will allow this Board to create metrics, and will assist this Board to better able to monitor the needs of businesses and residents in Miami-Dade County that have been impacted by the COVID-19 pandemic; and

WHEREAS, this Board further believes that the Miami-Dade Police Department (“MDPD”) should provide the Commission Auditor with data on the number of residential and commercial evictions that have been recorded and/or executed by MDPD since March 1, 2020,

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 urges the Clerk of Courts to provide the Commission Auditor quantitative and qualitative data associated with both COVID-19 related and pre-COVID-19 related residential evictions, from the Odyssey Case Manager System on a monthly basis. This Board further urges the Clerk of Courts to provide the information to the Commission Auditor in the format more fully described in section 4 of this resolution.

Section 3. This Board directs the County Mayor or the County Mayor's designee to provide the Commission Auditor with monthly reports on the number of residential and commercial writs of possession that have been recorded and/or executed by the Miami-Dade Police Department since March 1, 2020. Such reports shall be submitted to the Commission Auditor no later than four days prior to the end of each month.

Section 4. Upon receipt of the data and reports from the Clerk of Courts and the County Mayor or the County Mayor's designee identified in sections 2 and 3 of this resolution, this Board directs the Commission Auditor to provide this Board and the Miami-Dade Homeless Trust with monthly reports containing the following information:

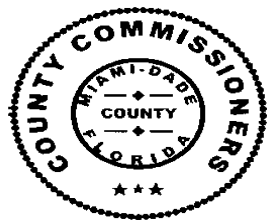
- (a) The first report shall contain the total number of pending residential and commercial evictions that were filed on or after March 1, 2020;
- (b) The total number of pending residential evictions that were filed after the Governor's Executive Order 20-94 that was issued on April 2, 2020;
- (c) The total number of commercial evictions that were filed after April 2, 2020;
- (d) The total number of pending residential evictions in which declarations were filed with the court in accordance with the court's administrative orders and the CARES Act;
- (e) The total number of pending residential evictions in which declarations were not filed with the court; and
- (f) The total number of residential and commercial eviction cases that resulted in the court issuing writs of possession after the expiration of the Governor's Executive Order 20-180.

The Commission Auditor shall provide the first report to this Board prior to the scheduled Board meeting on February 16, 2021, and monthly thereafter. The completed reports shall be placed on an agenda of the Board pursuant to Ordinance No. 14-65.

The Prime Sponsor of the foregoing resolution is Commissioner Raquel A. Regalado and the Co-Sponsor is Commissioner Eileen Higgins. It was offered by Commissioner **Raquel A. Regalado**, who moved its adoption. The motion was seconded by Commissioner **Oliver G. Gilbert, III** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared this resolution duly passed and adopted this 21st day of January, 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

Melissa Adames

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in black ink, appearing to read "TAS", written over a horizontal line.

Terrence A. Smith