MEMORANDUM

Amended
Agenda Item No. 11(A)(23)

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

DATE: May 4, 2021

FROM: Geri Bonzon-Keenan County Attorney

SUBJECT: Resolution urging the Clerk of the Court to provide on a monthly basis quantitative and qualitative data associated with residential and commercial foreclosures from the Odyssey Case Manager System to the Commission Auditor; and directing the Commission Auditor to provide monthly reports to the Board

Resolution No. R-468-21

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/smm

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(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
Veto __________
Override __________

Amended
Agenda Item No. 11(A)(23)
5-4-21

RESOLUTION NO. **R-468-21**

RESOLUTION URGING THE CLERK OF THE COURT TO PROVIDE ON A MONTHLY BASIS QUANTITATIVE AND QUALITATIVE DATA ASSOCIATED WITH RESIDENTIAL AND COMMERCIAL FORECLOSURES FROM THE ODYSSEY CASE MANAGER SYSTEM TO THE COMMISSION AUDITOR; 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 COVlD-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, as a result of the Governor's last executive order, foreclosures could again be filed and could proceed all the way to final judgment; and

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

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

WHEREAS, although on September 1, 2020, the Centers for Disease Control and Prevention ("CDC") 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 halted certain residential evictions, the CDC order did not cover mortgage foreclosures; and

WHEREAS, although the Chief Justice of the Florida Supreme Court and the Chief Judge of the Eleventh Judicial Circuit of Florida 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, similar administrative orders were not issued for foreclosure actions; 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 ("FHA")-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, under this order, homeowners were protected to a certain extent if they have a federally backed mortgage, which covers over two-thirds of residential mortgage loans across the United States; and

WHEREAS, pursuant to the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), there was a 60-day hold on foreclosures beginning March 18, 2020 for people who sustained losses as a result of COVID-19; and

WHEREAS, these borrowers were also able to qualify for 180 days of forbearance, and request another 180 days of relief if needed, and people who own multi-family properties were also able to access forbearance for up to 90 days if they do not evict their tenants or charge them late fees for failure to pay rent; and

WHEREAS, thereafter, the FHA extended the moratorium on foreclosures of FHA-insured single family mortgages and evictions from properties secured by FHA-insured single family mortgages until February 28, 2021, and the Federal Housing Finance Agency ("FHFA") extended the moratorium on foreclosures of single family mortgages backed by Freddie Mac and Fannie Mae until January 31, 2021; and

WHEREAS, on January 20, 2021, President Biden signed an executive order that calls on federal housing agencies to extend the foreclosure and eviction moratorium for federally backed mortgages at least through March 2021, and allow forbearance applications to continue for federally-backed mortgages; and

WHEREAS, accordingly, on January 21, 2021, the United States Department of Housing and Urban Development announced that it would extended the FHA and Public and Indian Housing eviction and foreclosure moratoriums until March 31, 2021; and

WHEREAS, the FHFA also extended its foreclosure moratorium until February 28, 2021; and

WHEREAS, on February 16, 2021, President Biden's administration announced: (1) the foreclosure moratorium for homeowners has been extended through June 30, 2021; (2) the mortgage payment forbearance enrollment window has been extended until June 30, 2021 for borrowers who wish to request forbearance; and (3) the administration will provide up to six months of additional mortgage payment forbearance, in three-month increments, for borrowers who entered forbearance on or before June 30, 2020; and

WHEREAS, notwithstanding the extraordinary measures the federal, state and local governments, and the courts, have taken to protect property owners during the COVID-19 pandemic, Miami-Dade County, like many other areas in the country, may face the most severe housing and economic crisis in its history; and

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

WHEREAS, the Clerk of Courts of Miami-Dade County ("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: (1) allows documents filed through the Florida Courts eFiling Portal to flow seamlessly into Odyssey; (2) allows the Clerk of Courts to maintain cases and electronic court documents using refined business workflows, queues and tasks; (3) allows the court to manage cases, calendars and hearings; and (4) provides attorneys with online access to civil case information and document images through the internet; and

WHEREAS, according to the data obtained from the Clerk of Court's website, between March 2020 and November 2020 there were a total of 1,273 foreclosure actions filed; and

WHEREAS, according to the Clerk of Courts, from March 13, 2021 to the present there were 843 final judgments entered by the court and 515 foreclosure sales; and

WHEREAS, there is a need to collect and analyze the quantitative and qualitative data associated with residential and commercial foreclosures, both COVID-19 related and pre-COVID 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, on January 21, 2021, this Board adopted Resolution No. R-58-21, which, in part, urged the Clerk of Courts to provide the Commission Auditor with data related to residential and commercial evictions, and directed the Commission Auditor to provide this Board with monthly reports; and

WHEREAS, this Board believes that further information concerning residential and commercial foreclosures is critical to further assist this Board; and

WHEREAS, therefore, 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 be better able to monitor the needs of businesses and residents in Miami-Dade County that have been impacted by the COVID-19 pandemic,

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 the Courts to provide the Commission Auditor with quantitative and qualitative data, both COVID-19 related and pre-COVID related, associated with residential and commercial foreclosures from the Odyssey Case Manager System on a monthly basis. This Board further urges the Clerk of the Courts to provide such information to the Commission Auditor in the format more fully described in section 3 below.

Section 3. This Board directs the Commission Auditor to, upon receipt of the data identified in section 2 above from the Clerk of the Courts, provide this Board and the Miami-Dade Homeless Trust with monthly reports containing the following information:

(a) For the first report only, the total number of pending residential and commercial foreclosures that were filed on or after March 1, 2020;

(b) The total number of pending residential foreclosures that were filed after the Governor's Executive Order 20-94 that was issued on April 2, 2020;

(c) The total number of commercial foreclosures that were filed after April 2, 2020;

(d) The total number of residential and commercial foreclosure cases that resulted in the court issuing final judgments after the expiration of the Governor's Executive Order 20-180;

(e) The total number of residential and commercial foreclosure sales of properties after the court issued its final judgments;

(f) The total number of foreclosed residential properties that are homestead exempt properties;

(g) The total number of foreclosed residential properties that are not homestead exempt properties;

(h) The courts of jurisdiction where each residential or commercial foreclosure action is or was filed, i.e., county court or circuit court;

(i) If practicable, the location by zip code of each residential and commercial property that is or was subject to a foreclosure action;

(j) The dollar amounts of each foreclosure action or judgment, i.e., $0.00 to $50,000.00, $50,000.00 to $250,000.00, and over $250,000.00; and

(k) If a foreclosed property was sold at a foreclosure sale, the amount of the purchase price.

The Commission Auditor shall include the information required by this resolution in the monthly reports on evictions required by Resolution No. R-58-21 commencing with the report that is due following the effective date of this resolution. 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. 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	**absent**	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	**absent**		

The Chairperson thereupon declared this resolution duly passed and adopted this 4th day of May, 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: **Melissa Adames**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Terrence A. Smith