

MEMORANDUM

Amended
Agenda Item No. 7(C)

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

DATE: March 1, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to certain residential building owners' obligation to residents when a residential building is deemed unsafe, including the responsibility to house and pay for relocation costs of displaced residents; amending section 8-5 of the Code; providing for payment of the relocation costs by Miami-Dade County upon an owner's failure to pay; requiring reimbursement to Miami-Dade County by residential building owner for any relocation costs paid by Miami-Dade County for resident relocation; providing for placement of lien on owner's property for any unreimbursed relocation expenses incurred by Miami-Dade County

Ordinance No. 22-24

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman.



Geri Bonzon-Keenan
County Attorney


GBK/uw

Memorandum



Date: March 1, 2022

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

From: Daniella Levine Cava 
Mayor

Subject: Fiscal Impact Statement for Ordinance Relating to Certain Residential Building Owners’ Obligation to Residents When a Residential Building is Deemed Unsafe, Including the Responsibility to House and Pay for Relocation Costs of Displaced Residents – File No. 220089

The proposed ordinance amends Section 8-5 of the Miami-Dade County Code to hold residential building owners responsible for providing alternate housing for displaced residents, and paying costs associated with relocation, when a building is deemed unsafe by the Building Official having jurisdiction and must be vacated. Furthermore, should the residential building owner fail to timely relocate residents, the code amendment empowers Miami-Dade County to assist in the relocation. Expenditures incurred by the County as result of the relocation efforts are to be assessed to the building owner and the owner advised via a Notice of Required Payment of Costs of Resident Relocation. In the event of non-payment, the Ordinance provides the County authorization to recover costs via lien against the property subject of the violation or upon any other property owned by the same individual/entity.

The proposed amendment to Section 8-5 applies throughout the entirety of Miami-Dade County, including unincorporated areas where the County building official has jurisdiction as well as within the 34 municipalities which have their own respective jurisdictions and building officials. The successful implementation of the ordinance will require significant coordination between County staff and municipalities when buildings are deemed unsafe and orders to evacuate are issued at the municipal level. Immediate notification to the County by municipalities declaring residential structures unsafe and unfit to occupy will be necessary to enable the County to relocate residents.

Although the ordinance does not obligate the County to effectuate the relocation of residents and incur relocation expenses, should the County elect to do so, funding in the Fiscal Year 2023 budget will be required. The ordinance is not anticipated to have a direct fiscal impact to Miami-Dade County, however, there will be a need for initial funding and subsequent recovery of costs in order to realize the objectives of the code amendment. It should be noted that the recovery of expenditures via placement of liens can be significantly protracted given that unless the property transacts there is not an impetus for satisfaction of the lien. The average lien assessed by Miami-Dade County takes several years to be satisfied. Additionally, within municipal jurisdictions the County’s ability to compel property owners to satisfy liens is limited, therefore potentially further delaying repayment. To the extent that these buildings are in a state of disrepair due to lack of resources, it is unlikely that the County would be immediately repaid.

At this time the potential annual expenditure rate is unknown, however, information has been obtained from the Homeless Trust to assist in quantifying potential expenditures. Since the Champlain Tower South building collapse in June of 2021, several buildings have been vacated by

building officials throughout Miami-Dade County due to unsafe conditions. To address the impacts to the residents of these buildings, the Homeless Trust has coordinated and funded the housing and relocation of residents thus providing data as to possible future funding and collections implications.

Through December 31, 2021, the Homeless Trust has become involved in relocating residents at six (6) properties throughout Miami-Dade County in hotels at a total cost of approximately \$2.1 million. This has only been possible as a result of resources made available through the Coronavirus Aid, Relief, and Economic Security (CARES) Act funding, a source that is not anticipated to be available in the future. Historically, the Homeless Trust has been restricted in the assistance it can provide to residents based on income levels, and under normal circumstances (absent CARES funds) can only provide limited rent support (first, last, and security deposit) or lodging in shelters. Prior to this proposed amendment to Section 8-5, there has not been a mechanism for cost recovery from owners in instances where the Homeless Trust has become involved to assist residents.

It should also be noted that the City of Miami Beach currently has an ordinance in place which applies the responsibility of relocation of residents upon the respective property owner and allows the City to undertake the relocations and assess the owner if immediate action is not taken. Fiscal impact data provided by Miami Beach for 6 buildings experiencing closure in 2021 amounts to less than \$5,000 dollars, with all but one building owner assuming the relocation responsibility.

A potential future funding mechanism that the Board of County Commissioners can consider establishing to support this code amendment involves a revolving fund whereby an initial amount funding is allocated through from the general fund through the budgeting process to administer relocations when necessary. The fund would be replenished as property owners repay the County for costs incurred or as liens placed on the properties for non-payment are satisfied. The amendment to Section 8-5 in the substitute item would provide authorization for County to assist in resident relocations by providing crisis housing placement and three meals a day for seven days after the building is vacated, and if the building still not occupiable or the owner taken responsibility after this period, the County would be authorized to provide displaced residents with financial assistance in an amount not to exceed three months' fair market rent, as defined by the United States Department of Housing and Urban Development. Considering the assistance limitations in the ordinance and the data set provided by the Homeless Trust regarding recent relocation expenses incurred, yields a preliminary estimate for initial funding required on the order of \$1 to \$2 million, with the budget to be reassessed and adjusted as necessary after the first year.

Should this legislation be adopted, the relocation of residents will be facilitated by the Office of Emergency Management in coordination with building jurisdictions throughout Miami-Dade and the Homeless Trust, as necessary. The formal noticing of property owners regarding required payment of costs associated with resident relocations and the appeal process outlined in the ordinance will be coordinated by OEM. The Department of Regulatory and Economic Resources will facilitate hearings before the Unsafe Structures Board or Appeal Panel as needed. The assessment and collection of liens, when necessary, will be undertaken by the Finance Department. It is anticipated that the effort required by municipalities and the various Departments to effectuate the ordinance can be absorbed by existing staff, however, reassessment may be required after the first year of implementation based on the volume of buildings necessitating vacation and confirmation of resources required.




Morris Copeland
Chief Community Services Officer

Memorandum



Date: March 1, 2022

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

From: Daniella Levine Cava
Mayor 

Subject: Social Equity Statement for Ordinance Relating to Certain Residential Building Owners’ Obligation to Residents When a Residential Building is Deemed Unsafe, Including the Responsibility to House and Pay for Relocation Costs of Displaced Residents – File No. 220089

The proposed ordinance amends Section 8-5 of the Miami-Dade County Code to hold residential building owners responsible for providing alternate housing for displaced residents, and paying costs associated with relocation, when a building is deemed unsafe by the Building Official having jurisdiction and must be vacated. Furthermore, should the residential building owner fail to timely relocate residents, the code amendment empowers Miami-Dade County to assist in the relocation. Any costs incurred by the County as result of the relocation efforts are to be assessed to the building owner and the owner advised via a Notice of Required Payment of Costs of Resident Relocation. In the event of non-payment, the Ordinance provides the County authorization to recover costs via lien against the property subject of the violation or upon any other property owned by the same individual/entity.

The proposed ordinance is expected to have a beneficial impact to the community by ensuring safe, alternate housing for residents impacted by residential building closures by assigning responsibility for tenant relocation on property owners who may have historically neglected appropriate maintenance measures. It should be noted, however, that the provisions apply to both rental buildings as well as condominiums. In the case of condominiums this ordinance will have the effect of assessing relocation costs onto homeowner’s associations that are responsible for building management and maintenance, and by extension potentially to the same property owners that may be relocated. In these instances, the placement of a lien may impact the homeowner’s association’s ability to finance repairs and improvements necessary to make the building safe to occupy and come into compliance with building code requirements.

The ordinance also attempts to mitigate the burden that has been placed on the County as a result of recent building closures (as further described in the corresponding fiscal impact statement) without taxing limited County crisis response resources. Additionally, it may incentivize building owners to better maintain their buildings to avoid incurring resident relocation and other related expenses.



Morris Copeland
Chief Community Services Officer



MEMORANDUM
(Revised)

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

DATE: March 1, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Amended
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 Amended
Veto _____ Agenda Item No. 7(C)
Override _____ 3-1-22

ORDINANCE NO. **O-22-24**

ORDINANCE RELATING TO CERTAIN RESIDENTIAL BUILDING OWNERS' OBLIGATION TO RESIDENTS WHEN A RESIDENTIAL BUILDING IS DEEMED UNSAFE, INCLUDING THE RESPONSIBILITY TO HOUSE AND PAY FOR RELOCATION COSTS OF DISPLACED RESIDENTS; AMENDING SECTION 8-5 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR PAYMENT OF THE RELOCATION COSTS BY MIAMI-DADE COUNTY UPON AN OWNER'S FAILURE TO PAY; REQUIRING REIMBURSEMENT TO MIAMI-DADE COUNTY BY RESIDENTIAL BUILDING OWNER FOR ANY RELOCATION COSTS PAID BY MIAMI-DADE COUNTY FOR RESIDENT RELOCATION; PROVIDING FOR PLACEMENT OF LIEN ON OWNER'S PROPERTY FOR ANY UNREIMBURSED RELOCATION EXPENSES INCURRED BY MIAMI-DADE COUNTY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, in the early morning hours of June 24, 2021, a residential condominium building known as Champlain Towers South located at 8777 Collins Avenue in Surfside, Florida, experienced a major structural collapse; and

WHEREAS, a substantial portion of the building was destroyed and the remainder of the structure had to be demolished; and

WHEREAS, the structural collapse of the building tragically resulted in many fatalities among the building's residents and visitors; and

WHEREAS, in addition to the tragic loss of life, the building's collapse led to the displacement of hundreds of residents, many of whom had no place to live; and

WHEREAS, it is the intent of Miami-Dade County to prevent such a tragedy from ever happening again; and

WHEREAS, Section 8-5 of the Code of Miami-Dade County currently gives the Building Official the authority to order the residents of a structure to vacate or to temporarily close a structure when the Building Official is of the opinion that there is actual or immediate danger of failure or collapse; and

WHEREAS, the Code also grants the Building Official the authority to institute such other temporary safeguards, including securing the building or structure, as the Building Official may deem necessary under the circumstances, and requires the owner to bear the costs of implementing such safeguards; and

WHEREAS, when an order to vacate a residential building is issued, in addition to the costs to secure the building and implement safeguards, there is a significant cost and inconvenience to the residents that live in the building, including the costs of relocating; and

WHEREAS, unlike the requirement in the Code which requires an owner to bear the costs associated with securing and safeguarding the building, there is no requirement that a owner bear the sometimes-significant costs to residents that an order to vacate creates; and

WHEREAS, regardless of a resident's income, the unexpected expenses caused by an order to vacate on little or no notice can negatively impact their way of life; and

WHEREAS, the owner, as the person or entity responsible for the maintenance and safety of the dwelling, should bear the costs to residents associated with receiving an order to vacate due to unsafe conditions created under their stewardship; and

WHEREAS, it is the desire of this Board to require owners to be responsible for the housing and relocation of residents upon issuance of an order by the Building Official to close or vacate a building for safety concerns,

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

Section 1. The foregoing recitals are incorporated as if set forth herein and are approved.

Section 2. Section 8-5 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:¹

Sec. 8-5. – Unsafe Structures.

* * *

(f) *Emergency action.*

>>(1)<<When in the opinion of the Building Official, there is actual or immediate danger of the failure or collapse of a building or structure, or there is a health, windstorm or fire hazard, he may order the occupants to vacate, temporarily close for use or occupancy the rights-of-way thereto, sidewalks, streets or adjacent buildings or nearby area and institute such other temporary safeguards, including securing the building or structure, as he may deem necessary under the circumstances, and may employ the necessary labor and materials to perform the required work as expeditiously as possible. In such event, the operation of the notice and hearing requirements of this Section shall be suspended as reasonably necessary in the opinion of the Building Official to redress the emergency situation. Costs incurred in the performance of such emergency work shall be paid by the appropriate governmental authority and upon the recording in the public records of this county a certificate executed by the Building Official, certifying the amount so expended, the same shall become a lien against the property involved.

>>(2) When the Building Official orders an occupied residential building, unit, or units to be vacated, as authorized in Sec. 8-5(f)(1), and deems that the actual or immediate danger of the failure or collapse of a building, unit, or structure, or health, windstorm, or fire hazard, is a result of the negligent or intentional act or failure to act by the owner, the owner shall, within eight hours from the time of the order

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

to vacate, make, or cause to be made, all necessary arrangements to relocate the displaced residents into housing that is safe, sanitary, and secure until such time that the building, unit, or units are made safe for re-occupation, or for at least a three-month period, and the owner shall pay or cause to be paid all of the reasonable expenses involved in such relocation. Reasonable efforts should be made to notify the owner of these obligations in writing on letterhead from the Building Official, however, failure to provide such notice shall not affect the enforcement of this ordinance. If the owner fails to relocate displaced residents within eight hours, County personnel shall be empowered to assist in the relocation by providing crisis housing placement and three meals a day for seven days immediately following the eight-hour period for the owner to comply. If, during that seven-day period, the owner fails to timely relocate displaced residents as described herein, County personnel shall be empowered to provide displaced residents with financial assistance to obtain temporary housing. The financial assistance shall be in an amount not to exceed three months' fair market rent, as defined by the United States Department of Housing and Urban Development. If the owner fails to timely relocate displaced residents as described herein, the owner shall pay all reasonable expenses incurred by the County, in accordance with the following:

- (i) Service of a Notice of Required Payment of Costs of Resident Relocation shall be made upon the building owner, or unit owner where applicable, by posting the Notice in a conspicuous location at the premises ordered to be vacated and by mailing the Notice by First Class Mail to the address listed in the records of the property appraiser's office for tax notices for the property ordered to be vacated, and at any other address provided to the Building Official by the owner, if any;
- (ii) The Notice of Required Payment of Costs of Resident Relocation shall include:
 - a. An affidavit itemizing the County's expenses incurred in the relocation, including but not limited to County administrative costs;
 - b. The date of issuance;
 - c. The name of the department or division issuing the Notice;
 - d. The obligation to relocate a resident or residents, and the code section creating such obligation;
 - e. The amount of relocation costs for which reimbursement is sought;
 - f. Notice of the right to request a hearing and instructions on how to file for the hearing;

- g. Notice that a failure to request a hearing within 20 days after the receipt of the Notice of Required Payment of Costs of Resident Relocation shall constitute a waiver of the violator's right to the hearing;
 - h. Notice that at said hearing, the finder of fact shall determine whether the relocation costs were expended by the County in accordance with the requirements of section 8-5 of the Code; whether there was an actual or immediate danger of the failure or collapse of a building, unit, or structure, or health, windstorm, or fire hazard; and whether the relocation of a resident or residents was the result of the negligent or intentional acts or inaction of the owner; and
 - i. Notice that the owner shall be liable for the reasonable costs of the hearing if the owner is unsuccessful at the hearing.
- (iii) The owner shall, within 20 calendar days after the service of the Notice, either pay the County the relocation costs in full, or request a hearing to appeal the Notice. Appeal by administrative hearing shall be accomplished by filing a request in writing to the address indicated on the Notice within 20 calendar days after the service of the Notice.
- a. Where no payment is made and no appeal has been timely filed, the failure to timely appeal shall constitute a waiver of the owner's right to hearing. A waiver of the right to hearing shall be treated as an admission that the County is entitled to reimbursement of the expended relocation costs, and a lien against the land on which the violation exists or upon any other real or personal property owned by the owner shall be assessed by the Unsafe Structures Board or Appeal Panel, at the County's discretion, and shall be filed in the public records of the County pursuant to section 8CC-7 of the Code.
 - b. At the County's discretion, appeal of said Notice may be heard during the related hearing concerning the code violations that caused the issuance of the Notice to Vacate the Premises. The Unsafe Structures Board or Appeal Panel shall order the owner to reimburse the County for monies expended to relocate a resident or residents, within thirty days of a finding that: the relocation costs were expended by the County in accordance with the requirements of this section; that there was an actual or immediate danger of the failure or collapse of a building, unit, or structure, or health, windstorm, or fire hazard; and that the relocation of a

resident or residents was the result of the negligent or intentional acts or inaction of the owner. Alternatively, the findings required herein may be determined by a court of competent jurisdiction where the County has, at its discretion, brought an action for injunction or other equitable relief to enforce compliance with or prohibit the violation of the Code, pursuant to section 1-5 of the Code.

- (iv) If the owner fails to timely pay the County-incurred expenses pursuant to the Order issued by the Unsafe Structures Board or Appeal Panel, a lien against the land on which the violation exists or upon any other real or personal property owned by the owner shall be assessed by the Appeal Panel or Board upon the filing of an Affidavit of Non-payment, and such lien shall be filed in the public records of the County pursuant to section 8CC-7 of the Code. Alternatively, where the owner has failed to pay a judgment against the owner entered by a court of competent jurisdiction in an action for injunction or other equitable relief to enforce compliance with or prohibit the violation of the Code, pursuant to section 1-5 of the Code, the County may utilize any and all remedies allowed by law. Any lien or judgment imposed pursuant to this subsection shall carry an interest rate as provided by section 1-5 of the Code.
- (v) With respect to rental units, the obligations of owners under this subsection shall only apply to tenancies entered into or renewed after the effective date of this subsection.<<

Section 3. 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 4. 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 part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be re-numbered or relettered to accomplish such intention, and the word “ordinance” may be to “section”, “article”, or other appropriate word.

Section 5. 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:

March 1, 2022

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Shannon D. Summerset-Williams

Prime Sponsor: Commissioner Sally A. Heyman