

MEMORANDUM

Agenda Item No. 11(A)(5)

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

DATE: June 1, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution directing the County Mayor to explore the feasibility of creating a loan program in collaboration with lending and financial institutions to provide financial assistance to condominium associations that are in need of such assistance and found to be in need of emergency structural repairs at the time of their 40-year recertification inspection or an equivalent recertification process, and subsequent recertification processes, and to identify a funding source; and requiring a report

Resolution No. R-545-22

This item was amended at the 4-14-22 County Infrastructure, Operations and Innovations Committee to direct the County Mayor or County Mayor’s designee to explore the feasibility of providing loans to condominium unit owners for the purposes set forth in the resolution.

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Danielle Cohen Higgins.



Geri Bonzon-Keenan
County Attorney

GBK/uw



MEMORANDUM

(Revised)

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

DATE: June 1, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 11(A)(5)

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)(5)
6-1-22

RESOLUTION NO. _____ R-545-22

RESOLUTION DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXPLORE THE FEASIBILITY OF CREATING A LOAN PROGRAM IN COLLABORATION WITH LENDING AND FINANCIAL INSTITUTIONS TO PROVIDE FINANCIAL ASSISTANCE TO CONDOMINIUM ASSOCIATIONS THAT ARE IN NEED OF SUCH ASSISTANCE AND FOUND TO BE IN NEED OF EMERGENCY STRUCTURAL REPAIRS AT THE TIME OF THEIR 40-YEAR RECERTIFICATION INSPECTION OR AN EQUIVALENT RECERTIFICATION PROCESS, AND SUBSEQUENT RECERTIFICATION PROCESSES, AND TO IDENTIFY A FUNDING SOURCE; AND REQUIRING A REPORT

WHEREAS, in accordance with the County Code and certain municipal codes, 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, Champlain Towers South, a 12-story beachfront condominium in Surfside, Florida, partially collapsed; 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 widely reported that the estimated cost of the repairs needed to comply with the 40-year recertification for Champlain Towers 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 condominium associations do not delay undertaking emergency repairs that are necessary to ensure the structural stability of the buildings they oversee, and to further ensure the safety of the residents residing in these buildings; and

WHEREAS, on November 16, 2021, the Miami-Dade County Office of the Commission Auditor completed a report entitled, “Research on Condominium Emergency Repair Funding” (the “report”) that provides an overview of jurisdictions across the United States that have provided funding for condominium associations for emergency structural repairs; and

WHEREAS, the report found that the State of Minnesota has a program specifically designed to provide direct financial assistance to condominium associations for emergency repairs; and

WHEREAS, the Minnesota program has provided funding to several condominium associations that have undertaken structural repairs including the replacement or repair of windows, doors, balconies, stairways, electrical systems, parking garages, ventilation, water lines, roofs, and emergency generators; and

WHEREAS, this Board wishes to implement a similar program in Miami-Dade County to provide loans to condominium associations to make necessary emergency structural repairs to guarantee the safety of their residents; and

WHEREAS, this Board further believes that it has an obligation to protect the health, safety, and welfare of the residents of Miami-Dade County; and

WHEREAS, this Board further believes that there is a compelling public interest and a public purpose to assist in assuring that property owned by condominium associations are structurally safe, and that loans that are affordable to such condominium associations that can assist them in making necessary repairs that can avoid another Champlain Tower disaster, will reduce or avoid the potential threat to the public health, safety, and welfare; and

WHEREAS, Miami-Dade County currently has several funding sources, including those dedicated to housing such as the State Housing Initiative Partnership, Documentary Stamp Surtax, HOME Investment Partnerships, Community Development Block Grant, Building Better Communities General Obligation Bond programs; and

WHEREAS, this Board desires that the County Mayor or County Mayor's designee identify an eligible funding source or funding sources, including those that are specifically for housing, that can be utilized to create a loan program for condominium associations that are found to be in need of emergency structural repairs at the time of their 40-year recertification inspection and which do not have the funds necessary to make such repairs; and

WHEREAS, this Board recognizes that although the County has limited resources, such resources should be used to assist condominium associations; and

WHEREAS, this Board believes that the County should collaborate with lending and financial institutions, such as Wells Fargo, Bank of America, TD Bank, Dade County Federal Credit Union, and PNC Bank, for example, to provide financial assistance to condominium associations that would not otherwise qualify for County assistance; and

WHEREAS, these and other lending and financial institutions have demonstrated their commitment to improving many communities through their community benefits programs; and

WHEREAS, these and other lending and financial institutions have an important role to play in our communities, and partnerships with the County help ensure they fulfill that role for everyone,

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 to explore the feasibility of creating a loan program in collaboration with lending and financial institutions, such as Wells Fargo, Bank of America, TD Bank, Dade County Federal Credit Union, and PNC Bank, to provide financial assistance to condominium associations that are: (1) located in Miami-Dade County; (2) found to be in need of emergency structural repairs at the time of their 40-year recertification inspection or an equivalent recertification process, and subsequent recertification processes; and (3) do not have the funds necessary to make such repairs. This Board further directs the County Mayor or County Mayor's designee, in collaboration with such lending and financial institutions, to determine the maximum loan amounts under the program. >>This Board further directs the County Mayor or County Mayor's designee to explore the feasibility of providing loans

directly to condominium unit owners for the purposes set forth herein.<<¹ In accordance with chapter 718, Florida Statutes, the program shall include, but is not limited to, the following minimum elements:

- (a) *Term of loan.* Loans shall be for a term of 30 years, and interest and payments shall be calculated based upon a 30-year term.
- (b) *Maximum loan amount.* The amount as determined by the County Mayor or County Mayor's designee in collaboration with the lending and financial institutions described above.
- (c) *Interest rate.* The loan program shall encourage condominium associations to participate in the program by offering more favorable loan terms.
- (d) *Loan documents.* The loan may be secured by a mortgage and other related documents approved by the County in its sole discretion and in accordance with the provisions of chapter 718, Florida Statutes. In the event the County Mayor or County Mayor's designee, in their sole discretion, determines that the County should provide an unsecured loan to a condominium association, then the County Mayor or County Mayor's designee shall obtain a pledge, assignment of assessment rights, or other similar instrument allowable under chapter 718, Florida Statutes, from the condominium association.
- (e) *Use of loan.* Loans shall only be paid to the condominium association for required structural repairs, including, but 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, that are required by the County or other governmental entity during a 40-year recertification inspection or an equivalent recertification process, and subsequent recertification processes.
- (f) *Evidence of required repairs.* The condominium association shall provide evidence to the County of the required repairs. Such evidence shall include inspection reports from the County or other governmental entity, engineering reports, or any other reports required by the County in its sole discretion.

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

- (g) *Evidence of condominium unit owners' approval of loan or other authority.* As may be required by applicable law and the condominium association's documents, the condominium association shall provide the County with evidence that the board of directors has the authority to apply for and receive the loan from the County, including any required votes that were obtained from the unit owners.

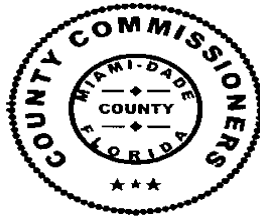
Section 3. This Board further directs the County Mayor or County Mayor's designee to identify a funding source to create the loan program described in section 2 of this resolution to provide financial assistance to condominium associations that are found to need emergency structural repairs at the time of their 40-year recertification inspection or an equivalent recertification process, and subsequent recertification processes.

Section 4. This Board directs the County Mayor or County Mayor's designee to provide this Board with a written report outlining the steps necessary to create the program described in section 2 of this resolution. The report shall include, but shall not be limited to, information concerning the funding source or funding sources that have been identified in accordance with section 3 of this resolution, and recommendations regarding any additional steps this Board may need to take to effectuate the purpose of this resolution. In the event the County Mayor or County Mayor's designee determines that it is not feasible to create the loan program described in section 2 of this resolution, then the County Mayor or County Mayor's designee shall submit a report that details the reasons it is not feasible. The report shall be completed within ~~[[30]]~~>>120<< days of the effective date of this resolution and placed on an agenda of this Board without the need for committee review in accordance with Ordinance 14-65.

The Prime Sponsor of the foregoing resolution is Commissioner Danielle Cohen Higgins. It was offered by Commissioner **Danielle Cohen Higgins**, 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	aye
Kionne L. McGhee	aye	Jean Monestime	absent
Raquel A. Regalado	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 1st day of June, 2022. 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

Basia Pruna

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

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

Terrence A. Smith
Melissa M. Gallo