

PRIVATE PROPERTY RIGHTS ELEMENT

Introduction

The CDMP has long recognized the importance of private property rights in planning and land development decision-making. The first clause of its Statement of Legislative Intent provides, “Nothing in the CDMP shall be construed or applied to constitute a temporary or permanent taking of private property or the abrogation of vested rights as determined to exist by the Code of Miami-Dade County, Florida.” This requirement has been implemented through a procedure for review of takings and vested rights claims that has been part of the County Code since 1989.

This Private Property Rights Element was adopted in response to Chapter 2021-195 of the Laws of Florida, which created section 163.3177(6)(i) of the Florida Statutes. That statute requires each local government to include a property rights element in its comprehensive plan to ensure that private property rights are considered in local decision-making.

The goal, objective, and policies of this Element work in concert with the CDMP’s current Statement of Legislative Intent and other policies and limitations set forth throughout the CDMP, as well as with land development and other regulations adopted by Miami-Dade County. The provisions of this Element shall not be construed to create or grant entitlements or permissions that do not otherwise exist pursuant to other applicable law. Further, this Element shall not be construed to preempt any federal, state, or local process requiring or allowing for the filing of applications to seek relief from land development or other regulations.

GOAL

MIAMI-DADE COUNTY WILL CONSIDER PRIVATE PROPERTY RIGHTS IN ITS DECISION-MAKING.

Objective PPR-1

Miami-Dade County will respect judicially acknowledged and constitutionally protected private property rights.

Policies

- PPR-1A. Miami-Dade County will consider in its decision-making the right of a property owner to physically possess and control his or her lawful interests in the property, including easements, leases, or mineral rights.
- PPR-1B. Miami-Dade County will consider in its decision-making the right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to federal and state law and local ordinances.
- PPR-1C. Miami-Dade County will consider in its decision-making the right of the property owner to privacy and to lawfully exclude others from the property to protect the owner’s possessions and property.
- PPR-1D. Miami-Dade County will consider in its decision-making the right of a property owner to lawfully dispose of his or her property through sale or gift.

Monitoring Program

To conduct the periodic evaluation and appraisal required by section 163.3191, Florida Statutes, local comprehensive plans must contain adopted procedures for monitoring and evaluating the Plan and its implementation. This section outlines the substantive features of Miami-Dade County's monitoring program pertinent to this Element. This Element does not require, and thus does not contain, Level of Service standards.

Objective PPR-1. The primary mechanism to monitor progress in achieving the objective and policies in this Element will be a periodic analysis of the extent to which Miami-Dade County land use and other regulatory decisions are made in accordance with judicially acknowledged and constitutionally protected private property rights, including whether applications asserting such rights are filed in accordance with Section 2-116.1 of the County Code, as may be amended, which sets forth procedures for review of takings and vested rights claims, or in accordance with Chapter 70 of the Florida statutes, which sets forth procedures for relief from burdens on real property rights.