MIAMIBEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Commissioner Matti Bower, Chairperson
Commissioner Luis R. Garcia, Jr., Chairperson

Members of the Ad Hoc Condominium Reform Taskforce
Alex Annunziato – Appointed by Commissioner Matti Bower
Nina Baliga – Appointed by Commissioner Luis R. Garcia, Jr.
Frank Del Vecchio – Appointed by Vice-Mayor Richard Steinberg
Joe Fontana – Appointed by Commissioner Saul Gross
Michael C. Gongora – Appointed by Vice-Mayor Richard Steinberg
Justo Gomez – Appointed by Mayor David Dermer
Calvin Kohli – Appointed by Commissioner Saul Gross
Luis Maseda – Appointed by Commissioner Jerry Libbin
Milli Membiela – Appointed by Commissioner Simon Cruz
Barbara Montero – Appointed by Commissioner Jerry Libbin
Maria Elena Negrin – Appointed by Commissioner Luis R. Garcia, Jr.
Rocio Sullivan – Appointed by Commissioner Simon Cruz
Morris Sunshine – Appointed by Mayor David Dermer
Stevan M. Zaiman – Appointed by Commissioner Matti Bower

FROM: City Manager, Jorge M. Gonzalez

DATE: March 14, 2006

SUBJECT: Meeting of the Ad Hoc Condominium Reform Taskforce

The meeting of the Ad Hoc Condominium Reform Taskforce of March 7, 2006 has been rescheduled for March 14, 2006 at 6:00PM in the City Manager's Large Conference Room.

AGENDA

OLD BUSINESS

1. Existing sections of the City Code licensing and/or occupancy requirements in the City Code for condominiums – City Attorney's Office

2. City Attorney's Memorandum dated January 23, 2006; #4 (Urge the Legislature to Strengthen the Condo Act) items (a) – (f)

NEW BUSINESS

3. Minutes of the February 21, 2006 Ad Hoc Condo Reform Taskforce

4. Action the City can take, respecting condominium conversions and existing condominiums, to identify and require upgrades- City Attorney's Office

5. Discussion of guest speaker and Workshop scheduled for March 21, 2006.

JMG/TH/dm
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EXISTING SECTIONS OF THE CITY CODE LICENSING AND/OR OCCUPANCY REQUIREMENTS IN THE CITY CODE FOR CONDOMINUMS

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aggrieved by any decision of the special master on an appeal shall be entitled to apply to the circuit court for a review thereof by petition for writ of certiorari in accordance with the applicable court rules.
(Code 1964, § 17B-14)

Secs. 58-234—58-290. Reserved.

DIVISION 3. MINIMUM STANDARDS

Sec. 58-291. Basic equipment, facilities and utilities.

(a) All buildings, vacant or occupied, shall comply with the requirements of subsections (b)—(h) of this section.

(b) Every area designed and used for the purpose of cooking in a building shall contain a kitchen sink in good working condition and properly connected to an approved water system and sewer system. It is the intent of this section to exclude hotel units.

(c) Every single-family dwelling, two-family dwelling and apartment unit shall contain a room affording privacy to a person within such room and equipped with a flush water closet, lavatory basin and bathtub or shower in good working condition and properly connected to an approved water system and sewer system. Every commercial unit, except office buildings, shall have a room affording privacy to a person within such room and equipped with a flush water closet and a lavatory basin in good working condition and properly connected to an approved water system and sewer system, except where more than ten employees are employed on the premises, in which case there must be two such facilities, one designated for men and one designated for women. Office buildings and restaurants shall have one such facility designated for men and one such facility designated for women. The common areas of hotels and office buildings shall provide one such facility, properly designated for each sex. This is not intended to include office buildings or accessory uses in hotels and apartment hotels where such facilities are provided for the public.

(d) Every kitchen sink, lavatory basin and bathtub or shower required under the provisions of this section shall be properly connected with both hot and cold water lines.

(e) Every dwelling and commercial building where there are cooking facilities within shall have water heating facilities which are properly installed, maintained in safe and good working condition and properly connected with the hot water lines required under the provisions of subsection (d) of this section and capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower.

(f) Every occupied dwelling, excluding hotel units, shall be provided with properly installed cooking facilities having at least two top burners. Vacant dwellings shall be provided with utility connections for such facilities.

(g) Every building shall have adequate garbage disposal facilities or garbage storage containers.

(h) Every building shall have two safe and unobstructed means of egress leading to an open space at ground level.

(i) This section shall not apply to boarded buildings.

(j) All bedrooms shall be heated and air-conditioned with a reverse cycle wall unit or central air-conditioning unit.
(Code 1964, § 17B-21; Ord. No. 98-3110, § 4, 6-3-98)

Sec. 58-292. Light and ventilation; door and window screens; electrical outlets.

(a) All buildings, vacant or occupied, shall comply with the requirements of subsections (b)—(h) of this section.

(b) Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area providing light to each habitable room shall be not less than ten percent of the floor area of such room. Whenever exterior walls or other light-

obstructing structures are located less than three feet from the window, such window shall not be deemed to face directly to the outdoors and shall not be included in the required minimum total window area. Whenever the only window in a room is a skylight type window located in the top of such room, the minimum total window area of such skylight shall be not less than 15 percent of the total floor area of the room.

(c) Every habitable room shall be ventilated by openable areas equal to 50 percent of the required minimum window area, as set forth in subsection (b) of this section or by equivalent mechanical ventilation as approved by the code inspector.

(d) Every bathroom, shower room and water closet compartment shall comply with the light and ventilation requirements for habitable rooms contained in subsections (b) and (c) of this section; except that no window or skylight shall be required in adequately ventilated bathrooms, shower rooms and water closet compartments equipped with an approved mechanical ventilating system that automatically becomes operational when the bathroom switch is turned on.

(e) Every door, window or other device opening to outdoor space and used or intended to be used for ventilation shall be provided with an approved type of screen for protection against mosquitos, flies and other insects.

(f) Every opening beneath a building, including basement or cellar windows and crawl space, shall be equipped with an approved type of screening or lattice work to keep out any animals.

(g) In all areas where electric power service is available, every habitable room shall contain at least two separate and properly installed wall-type electric outlets or one such outlet and one properly installed ceiling-type electric light fixture. Every bathroom, shower room, water closet compartment and laundry room shall contain at least one properly installed ceiling or wall-type electric light fixture. All electrical devices shall be properly installed and located to prevent electrical shock to any person.

(h) Every hall and stairway located in a structure used for human habitation shall be provided with not less than one footcandle of natural light throughout or with properly installed electric lighting facilities providing not less than one footcandle of illumination throughout, controllable by the occupants of the structure and available at all times.

(i) This section shall not apply to boarded buildings.
(Code 1964, § 17B-22)

Sec. 58-293. Safe and sanitary maintenance of structure and facilities.

(a) All buildings, vacant or occupied, shall comply with the requirements of subsections (b)—(i) of this section.

(b) All foundation walls shall be structurally sound, rodentproof, and maintained in good repair. Foundation walls shall be considered to be sound if they are capable of bearing imposed loads and are not deteriorated.

(c) Every building shall be weathertight and rodentproof. Floors, walls, ceilings and roofs shall be capable of affording adequate shelter and privacy and shall be kept in good repair. Windows and exterior doors shall be weathertight, watertight and rodentproof and shall be maintained in good working condition. All interior and exterior parts of any dwelling, including hotel or motel units, that show evidence of rot, deterioration or need for repainting shall be repaired, replaced or repainted whenever deemed necessary by the code inspector, unless such surface is covered by paneling, wallpaper or other similar covering in which event such shall be thoroughly washed and scrubbed whenever deemed necessary by the code inspector. Whenever repair or repainting of a portion of any interior part shall be required, the entire interior of that room shall be repainted.

(d) Every inside and outside stairway and porch and every appurtenance thereto shall be maintained in a safe condition and shall be capable of supporting loads that normal use may impose.

(e) Every chimney and smoke pipe and all flue and vent attachments thereto shall be maintained in such condition that there will be no leakage or backing up of smoke and noxious gases into the dwelling.

(f) All exterior surfaces subject to deterioration shall be properly maintained and protected from the elements by paint or other approved protective coating applied in a workmanlike fashion.

(g) Every plumbing fixture, water pipe, waste pipe and drain shall be maintained in good sanitary working condition, free from defects, leaks and obstructions.

(h) The floor surface of every water closet compartment, bathroom and shower room shall be maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

(i) Every facility, piece of equipment or utility supplied by the owner shall be maintained in a safe and satisfactory working condition. No owner or occupant shall cause any service, facility, equipment or utility currently supplied to be removed from or discontinued for any occupied building, except for such temporary interruption as may be necessary while actual repairs, replacements or alterations are in process. This section also includes every refrigerator, stove, elevator, telephone service or air conditioner paid for, furnished or provided by or under the control of the owner or operator whether required by this article or not so required.

(j) Subsections (c)—(e) and (g)—(i) of this section shall not apply to boarded buildings.
(Code 1964, § 17B-23; Ord. No. 98-3110, § 5, 6-3-98)

Sec. 58-294. Living space, size, use and location requirements.

(a) All buildings, vacant or occupied, shall comply with the requirements of subsections (b)—(e) of this section.

(b) In every dwelling of two or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant.

(c) At least one half of the floor area of every habitable room shall have a ceiling height of at least seven feet.

(d) No dwelling containing two or more sleeping rooms shall be so arranged that access to a bathroom, shower room or water closet compartment intended for use by occupants of more than one sleeping room can be had only by going through another sleeping room or outside the structure, nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room, bathroom, shower room or water closet compartment.

(e) No cellar or basement space shall be used as a habitable room.

(f) Subsections (b), (c) and (d) shall not apply to boarded buildings.
(Code 1964, § 17B-24)

Sec. 58-295. Hotels and roominghouses.

(a) All hotels and roominghouses shall comply with the requirements of subsections (b)—(m) of this section.

(b) No person shall operate a hotel or roominghouse unless he has complied with all of the licensing and permit requirements of the city.

(c) Every room used for sleeping purposes constructed after June 25, 1983, shall contain at least 100 square feet of floor area, and every such room occupied for sleeping purposes by more than one person shall contain an additional 100 feet of floor space. Every room used for sleeping purposes constructed prior to June 25, 1983, shall contain at least 70 square feet of floor area exclusive of closets and toilets, and every such room occupied for sleeping purposes by more than one person shall contain an additional 90 square feet of floor space. In every room occupied for sleeping purposes, the shortest dimension of any wall shall be not less than eight feet and shall have an average floor to ceiling height of at least eight feet.

(d) At least one flush water closet, lavatory basin and bathtub or shower, properly connected to a water and sewer system approved by the county health officer and in good working condi-

tion, shall be supplied for each eight persons or fraction thereof residing within a hotel, motel or roominghouse, including members of the operator's family whenever they share the use of such facilities; provided, that in a roominghouse where rooms are let only to males, flush urinals may be substituted for no more than half the required number of water closets. All such facilities shall be so located within the dwelling as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. No such facilities shall be located in a basement, except by written approval of the county health officer.

(e) No cellar or basement space shall be used as a habitable room or as a hotel unit or rooming unit.

(f) The operator of every hotel, hotel unit or roominghouse shall change supplied bed linen and towels at least once each week and prior to the letting of any room to any occupant. The operator shall be responsible for maintaining all supplied bedding in a clean and sanitary manner.

(g) The operator of every hotel, hotel unit or roominghouse shall be responsible for the sanitary maintenance of all walls, floors, ceilings and other parts and shall be further responsible for the sanitary maintenance of the entire premises where all of the building is under the control of such operator.

(h) Every window of every hotel unit or rooming unit shall be supplied with shades, draw drapes or other devices or materials that, when properly used, will afford privacy to the occupant of the hotel unit or rooming unit.

(i) If one or more persons occupy one or more hotel units or rooming units located on any floor above the ground floor of any hotel, hotel unit or roominghouse, there shall be at least two safe and unobstructed exits from such floor leading to a safe open space at ground level. Each exit shall be easily accessible from every hotel unit or rooming unit on the specified floor without passing through any other hotel unit, rooming unit or any other building. All exit stairways shall have at least one griprail not less than 42 inches above the stairway treads. Stairways open on both sides shall have such a griprail on each side.

(j) The operator of every hotel or roominghouse shall be responsible for keeping the premises free from the accumulation of rubbish at all times.

(k) The operator of every hotel, hotel unit or roominghouse shall be responsible for the prompt and sanitary disposal of all garbage.

(l) The operator of every hotel, hotel unit or roominghouse shall be responsible for providing and hanging all window and door screens; this shall not apply if air conditioning is provided.

(m) The operator of every hotel, hotel unit or roominghouse shall be responsible for the extermination of any insects, rodents, vermin or other pests therein and shall be further responsible for such extermination on the entire premises where all of the building within which the hotel or roominghouse is contained is leased or rented by the operator. Whenever infestation is caused by failure of the owner to maintain the building in a reasonably insectproof or ratproof condition, extermination shall be the responsibility of the owner.

(n) It shall be the duty of the operator of every hotel, hotel unit or roominghouse to report to the county health department, within 24 hours, the name of any person living in the hotel or roominghouse who is believed to be afflicted with any communicable disease.

(o) Subsections (b), (c), (d), (f), (h), (i), (j) and (m) of this section shall not apply to boarded buildings.
(Code 1964, § 17B-25)

Sec. 58-296. Adult congregate living facilities.

(a) In addition to the property maintenance standards set forth in this article, adult congregate living facilities (ACLF) must comply with the requirements of subsections (b)—(k) of this section, which shall control in case of conflict.

(b) Facilities must be in conformance with all provisions of the South Florida Building Code, Fire Code, and the H.R.S. Fire Safety Standards for adult congregate living facilities.

(c) All facilities with enclosed hallways shall have sprinkler systems in hallways and bedrooms.

(d) Smoke detectors are required in each bedroom.

(e) All bedrooms, dining and indoor recreation areas shall be heated and air conditioned.

(f) All facilities of more than two floors shall have an elevator large enough to carry a stretcher 76 inches by 24 inches in a horizontal position.

(g) Each bedroom and bathroom shall have emergency call buttons.

(h) A bathroom shall be provided for each two ACLF units.

(i) Units including bedrooms, bathrooms and closets shall be a minimum of 200 square feet for the first two occupants in each unit; for each additional person, another 100 square feet shall be added excepting facilities with valid city and H.R.S. licenses as ACLF's as of June 25, 1983.

(j) Each communal area for eating and recreation shall each be no less than 20 square feet per person; such areas may be contiguous to one another.

(k) Facilities must be in conformance with state department of children and family services guidelines regarding availability of staff personnel on the premises.
(Code 1964, § 17B-26)

Sec. 58-297. Nondwelling structures and fences.

(a) All nondwelling structures and fences shall comply with the requirements of subsections (b)—(f) of this section.

(b) Every foundation, exterior and interior wall, roof, floor, ceiling, window and exterior door shall be structurally sound and maintained in good repair.

(c) Every accessory structure shall be kept in a reasonably clean and sanitary condition, free from rodents, insects and vermin.

(d) The roof of every accessory structure shall be well drained of rain water.

(e) All exterior surfaces subject to deterioration shall be properly maintained and protected from the elements by paint or other approved protective coating, applied in a workmanlike fashion.

(f) Every plumbing fixture, water pipe, waste pipe and drain shall be maintained in good sanitary working condition, free from defects, leaks and obstructions.
(Code 1964, § 17B-27)

Sec. 58-298. Responsibilities of owners and occupants.

(a) All buildings, vacant or occupied, shall comply with the requirements of subsections (b)—(o) of this section.

(b) Every building shall be clean, sanitary and fit for occupancy.

(c) Every occupant of a building shall keep in a clean and sanitary condition that part of the building and premises he occupies and controls, including yards, lawns, courts and driveways.

(d) Every owner of a building containing three or more units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the building and premises.

(e) Exterior premises shall be kept free from the excessive growth of weeds, grass and other flora. The term "excessive" shall be interpreted as detrimental to the health, safety or welfare of the occupants or the public.

(f) Every occupant of a building shall keep all plumbing fixtures, sanitary facilities, appliances and equipment in that building in a clean and sanitary condition and shall exercise reasonable care in the proper use and operation thereof.

(g) Every occupant of a building shall dispose of rubbish, garbage and other waste materials in an approved sanitary manner. Garbage shall be placed in the garbage disposal facilities or storage containers required in section 58-291(g).

(h) Every occupant of a building containing a single dwelling on any premises shall be responsible for the extermination of any insects, rodents, vermin or other pests in the building or on the premises; however, the extermination of termites, and other insects that destroy the structure of the building, shall be the sole responsibility of the owner. If there is more than one unit in a building, whether owned by individual or multiple owners, including condominiums, co-operatives, townhouses, duplexes and similar structures, the owner shall be responsible for the extermination of all insects, termites, and other insects that destroy the structure of the building, rodents or other pests in the building or on the premises, including public spaces of the building and outside premises. The exterminator shall be permitted reasonable access to any building during daylight hours, except for fumigation and like work for extermination of structural infestation, in which case access for a reasonable amount of time necessary for such work shall be permitted by the occupant and owner. The owner shall be responsible for adequate substitute sleeping facilities of all occupants during the period of extermination for termites or structural infestation.

(i) Every owner of a building shall, before renting or subletting to another occupant, provide approved door and window screens whenever such screens are required under the provisions of this article, and shall repair or replace them when necessary.

(j) Every owner shall grade and maintain the exterior premises so as to prevent the accumulation of stagnant water on the premises.

(k) Animals and pets shall not be kept in any dwelling or on any premises in such manner as to create unsanitary conditions or constitute a nuisance.

(l) Where a refrigerator, stove or air conditioner, whether individual units or central air conditioning, is supplied by the owner, it shall be the duty and responsibility of such owner to maintain each in good and proper working order. Where central air conditioning is provided and not individually controlled by thermostat, it shall be the duty and responsibility of the owner to operate the same continuously, maintaining a continual temperature range between 70 and 76 degrees based on normal outside temperature and humidity factors, on a 24-hour basis, except for minimal shutdown periods required for reasonable maintenance and repair. Where air conditioning is provided and individually controlled by thermostat, it shall be the duty and responsibility of the owner to maintain such units so as to be capable of maintaining a continual temperature range between 70 and 76 degrees on a 24-hour basis. The owner or operator of a commercial building shall be required to operate central air conditioning only during normal business hours.

(m) Every owner or owner's agent of a building that has rental units shall post a sign in a conspicuous place, inside the vestibule or lobby of the building, indicating the names, addresses and telephone numbers, local and foreign, of the owner or manager; but this subsection shall not apply where there is a resident agent on the premises. Every owner who does not maintain his principal residence within the county shall be required to designate, in writing, to the city manager's designee some legally competent person who shall be designated as the owner's agent and who shall reside within the county. Such person shall be authorized by the owner to accept notices of violation, process and other communications relating to the enforcement of this article. The owner shall obtain the acceptance of such designation from the person so designated in writing and file it with the city manager's designee at the time the designation is filed. If the designated agent resigns, retires, is terminated or the agency relationship is otherwise terminated, the owner shall appoint another agent. The code inspector is authorized and directed to prescribe a form for the purpose of implementing this subsection. The information to be provided on the form shall include the name and residence address and telephone number of the owner and designated agent, the address of the building, and the designated agent's work address and telephone. The

Sec. 114-1. Definitions.

The following words, terms and phrases when used in this subpart B, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory building means a detached subordinate building or portion thereof, the use of which is incidental to and customary in connection with the main building or use and which is located on the same lot with such main building or use. Where there is no main building on the lot, an accessory building shall be considered as a main building for the purpose of the height, area, and bulk regulations.

Accessory use means a subordinate use which is incidental to and customary in connection with the main building or use and which is located on the same lot with such main building or use.

Adult congregate living facility means any state licensed institution, building, residence, private home, boarding home, home for the aged, or other place whether operated for profit or not, which undertakes through its ownership or management to provide for a period exceeding 24 hours, one or more personal services for four or more adults, not related to the owner or administrator by blood or marriage, who require such services. A facility offering personal services for fewer than four adults shall be within the meaning of this definition if it holds itself out to the public to be an establishment which regularly provides such services.

Adult congregate living facility unit means any room, or inter-connected rooms with one main entrance, in an adult congregate living facility, containing one or more beds.

Aggregate area or aggregate width means the sum of two or more designated areas or widths to be measured, limited, or determined under these regulations.

Alcoholic beverage shall be as defined by F.S. § 561.01(4).

Alcoholic beverage establishment means any commercial establishment located in the city which allows for alcoholic beverages (liquor, beer or wine) to be consumed by patrons on the premises.

Alcoholic beverage establishment (midnight to 2 a.m.) means a commercial establishment located in the city which allows for alcoholic beverages (liquor, beer or wine) to be consumed by patrons on the premises, up until 2:00 a.m.

Alcoholic beverage establishment (midnight to 5 a.m.) means a commercial establishment located in the city which allows for alcoholic beverages (liquor, beer or wine) to be consumed by patrons on the premises, up until 5:00 a.m.

Alley means a public or private thoroughfare which affords only a secondary means of access to abutting property and which is not otherwise designated as a street.

Apartment building means a building with or without resident supervision occupied or intended to be occupied by more than two families living separately with separate cooking facilities in each unit.

Apartment hotel means a building containing both apartment units and hotel units, under resident supervision, and having an inner lobby through which all tenants must pass to gain access.

Apartment unit means a room, or group of rooms, occupied or intended to be occupied as separate living quarters by one family and containing independent cooking and sleeping facilities. (Term includes condominium).

Applicant means any person seeking to undertake any development as defined in this section.

Archeological site means a specific location which has yielded or is likely to yield information about local history or prehistory. Archeological sites may be found within archeological zones, historic sites, or historic districts.

Architectural district means that area listed on the National Register of Historic Places, as of May 14, 1979, in accordance with the National Preservation Act of 1966 as amended and in the Florida Master Site File under Number 8-DA 1048 as the city architectural district.

Availability or *available* mean with regard to the provision of facilities and services concurrent with the impacts of development, means that at a

minimum the facilities and services will be provided in accordance with the standards set forth in F.A.C. 9J-5.055(2).

Awning means a detachable, roof like cover, supported from the walls of a building for protection from sun or weather.

Balcony means a platform that projects from the wall of a building and has a parapet or railing, the long side of which is open above the guardrail or parapet. The platform may service one unit or it may be a continuous platform serving more than one unit with a wall separating the platform between the units.

Bar means an alcoholic beverage establishment which is not also licensed as a restaurant, dance hall or entertainment establishment.

Bar counter, accessory outdoor means an accessory freestanding or substantially unenclosed counter or similar device either stationary or mobile at or behind which alcoholic beverages may be prepared and served.

Beachfront park and promenade plan means a revegetation program including beach recreation structures which are primarily constructed of wood, concrete or other hard surface and located on the dune, for the purpose of permitting the passage of pedestrians along, over and across the dune in such a manner as to protect and stabilize the dune, vegetation, and beach.

Bed and breakfast inn means a historic structure originally built as a single-family residence which is owner occupied and operated to provide guest rooms with breakfast and/or dinner included as part of the room rate.

Beer means a brewed beverage containing malt.

Block means a segment of the city, usually but not always a square area, formed by and lying between intersecting streets or other physical boundaries, unless otherwise defined by an official plat of property in the city. Also, the length of one side of such a square.

Building means any structure having a roof supported by columns or walls for the shelter or enclosure of persons or property and includes the word structure and includes any part thereof.

Building card means a document maintained by the building services department for purposes of recording building permits and other pertinent construction data and zoning related actions that affect the property which document originates at the time a parcel of land is created and is kept as a history of the property.

Building official means the individual appointed by the city manager to administer and enforce the South Florida Building Code in the city.

Building permit means a permit issued by the designated building official, his designee or authorized agency or department of the city which allows a building or structure to be erected, constructed, demolished, altered, moved, converted, extended, enlarged, or used, for any purpose, in conformity with applicable codes and ordinances.

Building site means any improved lot, plot, or parcel of land where there may exist a main permitted structure and any accessory/auxiliary building or structure including, but not limited to, swimming pools, tennis courts, walls, fences, or any other improvement which was heretofore constructed on property containing one or more platted lots or portions thereof shall constitute one building site.

Bulkhead line means an official line designated by the city commission for properties located along Biscayne Bay, Government Cut or the Atlantic Ocean, as described in chapter 14, article V.

Cabana means an accessory structure used as a bathhouse or a shelter directly associated with a swimming pool or deck.

Cafe, beachfront means a permanent structure located on the beach in the dune overlay district where food and beverages are served.

Cafe, outdoor means a use characterized by outdoor table service of food and beverages prepared for service in an adjacent or attached main structure for consumption on the premises. This definition does not include an accessory outdoor bar counter, which is considered to be a separate accessory use to an outdoor cafe or a hotel pool deck, as described in section 142-1109.

ARTICLE I. IN GENERAL

Secs. 142-1—142-70. Reserved.

ARTICLE II. DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 142-71. Districts established.

(a) *Districts and symbols.* To achieve the purposes of these land development regulations, the Code of the city, and regulate the use of land, water and buildings, height and bulk of buildings and other structures, and population density and open space, the city is hereby divided into the following districts:

Symbol	*District*
RS-1	Single-family residential
RS-2	Single-family residential
RS-3	Single-family residential
RS-4	Single-family residential
RM-1	Residential multifamily, low intensity
RM-2	Residential multifamily, medium intensity
RM-3	Residential multifamily, high intensity
RM-PRD	Multifamily, planned residential development
CD-1	Commercial, low intensity
CD-2	Commercial, medium intensity
CD-3	Commercial, high intensity
CCC	Convention center district
GC	Golf course district
GU	Government use
HD	Hospital district
I-1	Industrial, light
MR	Marine recreational
MXE	Mixed use entertainment
RO	Residential/office
RO-2	Residential/office low intensity
RO-3	Residential/office medium intensity
TH	Townhome residential
WD-1	Waterway district
WD-2	Waterway district
R-PS1	Residential medium-low density
R-PS2	Residential medium density
R-PS3	Residential medium-high density
R-PS4	Residential high density
C-PS1	Commercial limited mixed use
C-PS2	Commercial general mixed use
C-PS3	Commercial intensive mixed use
C-PS4	Commercial intensive phased bayside
RM-PS1	Residential mixed-use development
SPE	Special public facilities educational

(b) *Zoning map designations.*

(1) *Zoning map.* Designation of zoning districts and overlay zones shall be on the official zoning map. The official zoning map shall indicate the location of zoning districts as described in subsection (a) of this section and overlay zones as described in subsection (b)(3) of this section.

(2) *GU properties.* Except as otherwise provided in article II, division 9 of this chapter, all city-owned properties are zoned GU although they may not be designated on the map.

(3) *Explanation of overlay districts and sites.*

Dune preservation
Oceanfront
Convention hotel
Historic preservation
Historic preservation site

(c) *Additional map designations.*

(1) The designation of parking impact fee districts shall be on an official map entitled parking impact fee districts.

(2) The official zoning map and the parking impact fee district map shall be on file and available to the public in the office city clerk and the planning, design and historic preservation division.

(3) All lots in Fisher Island which do not have a zoning district assignment are considered to be in the GC golf course district classification.

(Ord. No. 89-2665, §§ 4-1, 21-8, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 93-2885, eff. 11-27-93; Ord. No. 99-3199, §§ 3, 6, 7-20-99; Ord. No. 99-3215, § 2, 11-17-99)

Sec. 142-72. District map.

The locations of the districts are shown on a map designated as the city zoning district map, dated and signed by the mayor and city clerk upon adoption. This zoning district map, together with all notations, dimensions, references and symbols shown thereon, pertaining to such districts, is hereby adopted by reference and declared to be as much a part of these land development regulations as if fully described herein. Such map shall be available for public inspection in the office of the planning, design and historic preservation division and any later alterations to this map, adopted by amendment as provided in these land development regulations, shall be similarly dated, filed, and made available for public reference.

(Ord. No. 89-2665, § 4-2, eff. 10-1-89; Ord. No. 98-3151, eff. 10-7-98; Ord. No. 99-3216, § 1, 11-17-99; Ord. No. 2000-3227-A, § 1, 1-26-00; Ord. No. 2000-3229-A, § 1, 1-26-00)

Sec. 142-73. Interpretation of district boundaries.

A district name or symbol shown on the district map indicates that the regulations pertaining to the district designated by that name or letter-number combination extend throughout the whole area in the municipality bounded by the district boundary lines within which such name or symbol is shown or indicated, except as otherwise provided by this section. Where uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of these land development regulations, the following rules apply:

(1) In cases where a boundary line is given a position within a street or alley, easement, canal, navigable or nonnavigable stream, it will be deemed to be in the center of the right-of-way of the street, alley, easement, canal, or stream, and if the actual location of such street, alley, easement, canal, or stream varies slightly from the location as shown on the district map, then the actual location controls.

(2) The boundary line adjacent to Biscayne Bay is the established bulkhead line.

(3) The boundary line adjacent to the Atlantic Ocean is the erosion control line as determined in accordance with Florida Statutes. Structures located east of the bulkhead line and extending to the erosion control line shall be considered similar to an accessory use to the upland property and allowed only pursuant to the provisions of article III, division 2 of this chapter, dune preservation overlay regulations. In the event there is no bulkhead, then a line shall be extended from the adjacent properties' bulkhead line. This line shall be determined to be the bulkhead line for the property until one is constructed.

(4) The east boundary line of the dune overlay zone shall be the erosion control line as established by the appropriate regulatory agencies and the west boundary line shall be the bulkhead line as set forth in subsection (3) of this section. The north and south boundary line shall be the city limits.

(5) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries will be construed to be the lot lines, and where bounded approximately by lot lines, the lot lines will be construed to be the boundary of such districts unless the boundaries are otherwise indicated on the map or by ordinance.

(6) If a parcel of property is crossed by a zoning district boundary and thus lies in two zoning districts, the district boundary shall be treated as if it were a lot line separating the two separately zoned parcels.

(b) *Lot width, unit size and building requirements.* The lot area, lot width, unit size and building height requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

Minimum Lot Area (Square Feet)	*Minimum Lot Width (Feet)**	*Minimum Unit Size (Square Feet)*	*Maximum Building Height*	*Maximum Number of Stories*
RS-1 = 30,000	RS-1 = 100	1,800	25 feet or 50% of lot width, whichever is greater, up to a maximum of 33 feet; height shall be measured from grade, as defined in section 114-1.	3
RS-2 = 18,000	RS-2 = 75			
RS-3 = 10,000	RS-3 = oceanfront: 50 all other: 60			
RS-4 = 6,000	RS-4 = 50			

*Except those lots fronting on a cul-de-sac or circular street as defined in lot width.

(c) *Conditional use permit.* An application for a conditional use approval for a parking lot pursuant to section 142-103 shall be subject to the following requirements:

(1) Only an at-grade, surfaced parking lot shall be permitted pursuant to this subsection. A parking structure, building or garage shall not be permitted.

(2) An application for a parking lot submitted pursuant to this subsection shall be subject to the design review procedures, requirements and criteria and the landscape requirements and criteria as set forth in chapter 118, article VI, and section 134-6, respectively. These review criteria are in addition to the required conditional use procedures and criteria set forth in chapter 118, article IV.

(3) For purposes of this subsection only, a parking lot within the RS-4 district shall not exceed 10,000 square feet in area and 65 feet in width, inclusive of all paved and landscaped areas.

(4) Permanent surfaces of a parking lot reviewed pursuant to this subsection shall meet the following minimum setbacks:

a. Front yard: 20 feet.

b. Side yard, interior: a side yard immediately adjacent to the RS-4 district, ten feet; otherwise zero feet.

c. Rear yard: five feet.

(5) No variances shall be granted from the requirements of this subsection.

(d) *Reserved.*

[e] *Lot coverage (building footprint).* Buildings or structures shall not occupy more than 35 percent of the lot area upon which the building or structure is erected; except that one-story structures on lots that have an area of 10,000 square feet or less shall be subject to existing setback regulations, but in no instance shall exceed 50 percent of the lot area. For purposes of this section, a one-story structure shall not exceed 18 feet in height as measured from grade.

For purposes of calculating lot coverage, the footprint shall be calculated from the exterior face of exterior walls and the exterior face of exterior columns on the ground floor of all principal and accessory buildings, or portions thereof. However, outdoor covered areas, such as, but not limited to, loggias, covered patios, pergolas, etc., that are open on at least two sides, and not covered by an enclosed floor above, shall not be included in the lot coverage calculation.

A maximum of 400 square feet of non-air conditioned garage space shall not be counted in lot coverage if the garage is set back an additional five feet from the main building line facing the right-of-way, or the garage is constructed with vehicular entrance(s) perpendicular or not visible from the right-of-way, or if the garage entrance is not part of the principal facade of the building.

(7) The boundary line between the Atlantic Ocean and Biscayne Bay shall be a constant projected line 152.20 feet south of the extension of the southerly end of Biscayne Street.

(Ord. No. 89-2665, § 4-3, eff. 10-1-89)

Secs. 142-74—142-100. Reserved.

DIVISION 2. RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS

Sec. 142-101. Purpose.

The RS-1, RS-2, RS-3, RS-4 single-family residential districts are designed to protect the character of the single-family neighborhoods.

(Ord. No. 89-2665, § 6-1(A)(1), eff. 10-1-89; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 94-2966, eff. 12-31-94)

Sec. 142-102. Main permitted uses.

The main permitted uses in the RS-1, RS-2, RS-3, RS-4 single-family residential districts are single-family detached dwellings.

(Ord. No. 89-2665, § 6-1(A)(2), eff. 10-1-89; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 94-2966, eff. 12-31-94)

Sec. 142-103. Conditional uses.

Conditional uses in the RS-1, RS-2, RS-3, RS-4 single-family residential districts include an at-grade parking lot in the RS-4 district when located immediately adjacent, without a gap due to alley, road, waterway or any other cause, to a CD-3 district. See subsection 142-105(c).

(Ord. No. 89-2665, § 6-1(A)(3), eff. 10-1-89; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 94-2966, eff. 12-31-94; Ord. No. 97-3069, § 1, 1-22-97)

Sec. 142-104. Accessory uses.

The accessory uses in the RS-1, RS-2, RS-3, RS-4 single-family residential districts are those uses customarily associated with single-family homes. (See article IV, division 2 of this chapter.)

(Ord. No. 89-2665, § 6-1(A)(4), eff. 10-1-89; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 94-2966, eff. 12-31-94)

Sec. 142-105. Development regulations and area requirements.

(a) *RS-1, RS-2, RS-3, RS-4 districts.* The development regulations for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

(1) Permits for new construction, alterations or additions to existing structures shall be subject to review by the planning and zoning director for consistency with the criteria listed in this section regarding the appearance and compatibility of the proposed construction with the site and the surrounding properties:

a. The construction of an addition shall be architecturally appropriate to the original design and scale of the building; the structure may be architecturally redesigned, but in a manner which is consistent in design and material throughout.

b. Exterior bars on entryways, doors and windows shall be prohibited on front and side elevations which face a street or right-of-way.

c. At least 30 percent of the required front yard area and 30 percent required side yard area facing a street shall be sodded or landscaped pervious open space, with the exception of driveways and paths leading to the building, paving may not extend any closer than five feet to the front of the building.

d. In no instance shall the elevation of any required yard be higher than one-half the difference between grade, as defined in section 114-1, and the minimum required flood elevation.

e. The construction shall be in conformance with the requirements of article IV, division 7 of this chapter with respect to exterior facade paint and material colors.

Sec. 142-155. Development regulations and area requirements.

(a) The development regulations in the RM-1 residential multifamily, low density district are as follows:

(1) Max. FAR: 1.25; west side of Collins Avenue between 76th and 79th Streets—1.4.

(2) Public and private institutions: Lot area equal to or less than 15,000 sq. ft.—1.25; lot area greater than 15,000 sq. ft.—1.4

(b) The lot area, lot width, unit size and building height requirements for the RM-1 residential multifamily, low density district are as follows:

Minimum Lot Area (Square Feet)	*Minimum Lot Width (Feet)*	*Minimum Unit Size (Square Feet)*	*Average Unit Size (Square Feet)*	*Maximum Building Height (Feet)*	*Maximum Number of Stories*
5,600	50	New construction—550 Elderly housing: See section 142-1183 Rehabilitated buildings—400	New construction—800 Elderly housing: See section 142-1183 Rehabilitated buildings—550	Historic district—40 (except as provided in section 142-1161) Otherwise—50	Historic district—4 (except as provided in section 142-1161) Otherwise—5

(Ord. No. 89-2665, § 6-2(B), eff. 10-1-89; Ord. No. 92-2853, eff. 6-26-93; Ord. No. 94-2965, eff. 12-31-94; Ord. No. 97-3097, § 2, 10-8-97; Ord. No. 98-3107, § 1, 1-21-98; Ord. No. 98-3149, § 1, 11-4-98; Ord. No. 98-3150, § 1, 11-4-98; Ord. No. 2005-3483, § 2, 5-18-05)

Sec. 142-156. Setback requirements.

(a) The setback requirements for the RM-1 residential multifamily, low density district are as follows:

	Front	*Side, Interior*	*Side, Facing a Street*	*Rear*
At-grade parking lot on the same lot except where (c) below is applicable	20 feet	5 feet, or 5% of lot width, whichever is greater	5 feet, or 5% of lot width, whichever is greater	Non-oceanfront lots—5 feet Oceanfront lots—50 feet from bulkhead line
Subterranean	20 feet	5 feet, or 5% of lot width, whichever is greater (0 feet if lot width is 50 feet or less)	5 feet, or 5% of lot width, whichever is greater	Non-oceanfront lots—0 feet Oceanfront lots—50 feet from bulkhead line
Pedestal	20 feet Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231-237 of the Amended Plat of First Ocean Front Subdivision—50 feet	Sum of the side yards shall equal 16% of lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Sum of the side yards shall equal 16% of lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Non-oceanfront lots—10% of lot depth Oceanfront lots—20% of lot depth, 50 feet from the bulkhead line whichever is greater

plications to the design review board for the review of new construction as described herein shall require the following fees, upon the submission of an application to the planning department:

a. Any application requiring a hearing before the board for design review approval shall require a base fee plus a fee per square feet of floor area as provided in appendix A.

b. If a deferment or clarification hearing is requested by the applicant, an additional fee as provided in appendix A shall be assessed.

c. If a determine or clarification of conditions is requested by the board, there will be no additional fee.

d. If the applicant removes a file from the agenda after it has been accepted by the planning department, the city shall retain 50 percent of the application fee.

e. Any after-the-fact application shall incur triple fees.

1. Notwithstanding the above provision, the design review board may adjust the after-the-fact fee based on good cause shown. The request for a fee adjustment shall be in writing and shall be part of the design review board application. The adjusted after-the-fact fee shall not be less than the regular application fee.

2. The request shall be part of the design review board application.

f. Revisions to plans previously approved by the board shall require a base fee as provided in appendix A plus one-half of the original fee.

(Ord. No. 2004-3468, § 1, 12-8-04)

Secs. 142-109—142-130. Reserved.

DIVISION 3. RESIDENTIAL MULTIFAMILY DISTRICTS

Subdivision I. Generally

Secs. 142-131—142-150. Reserved.

Subdivision II. RM-1 Residential Multifamily Low Intensity

Sec. 142-151. Purpose.

The RM-1 residential multifamily, low density district is designed for low intensity, low rise, single-family and multiple-family residences.
(Ord. No. 89-2665, § 6-2(A)(1), eff. 10-1-89; Ord. No. 92-2786, eff. 7-19-92)

Sec. 142-152. Main permitted uses.

The main permitted uses in the RM-1 residential multifamily, low density district are single-family detached dwelling; townhomes; apartments; hotels, for properties fronting Harding Avenue or Collins Avenue, from the City Line on the north, to 73rd Street on the south; and bed and breakfast inn (pursuant to article IV, division 7 of this chapter).
(Ord. No. 89-2665, § 6-2(A)(2), eff. 10-1-89; Ord. No. 92-2786, eff. 7-19-92; Ord. No. 95-3020, eff. 11-4-95; Ord. No. 2000-3257, § 1, 7-12-00)

Sec. 142-153. Conditional uses.

The conditional uses in the RM-1 residential multifamily, low density district are adult congregate living facility; day care facility; nursing home; religious institutions; private and public institutions; schools; and commercial or noncommercial parking lots and garages.
(Ord. No. 89-2665, § 6-2(A)(3), eff. 10-1-89; Ord. No. 92-2786, eff. 7-19-92)

Sec. 142-154. Accessory uses.

The accessory uses in the RM-1 residential multifamily, low density district are as required in article IV, division 2 of this chapter.
(Ord. No. 89-2665, § 6-2(A)(4), eff. 10-1-89; Ord. No. 92-2786, eff. 7-19-92)

(5) Average unit size for new construction is 1,000 square feet.

(6) Maximum building height is 120 feet.

(7) Maximum number of stories is 13.

(8) Lots, plots, and parcels of land that were designated RM-PRD under this section on October 1, 1989 (the "parent tract"), whether improved or unimproved or building site, as defined under the land development regulations of this Code, designated by number, letter or other description in a plat of a subdivision, may be further divided or split under this section, as long as all development on the parent tract collectively is in compliance with this section. Such division or split shall be considered to be in compliance with the regulations of this subdivision, and shall not be reviewed under city land development regulations section 118, article VII. Development under this section shall be subject to review under the design review procedures pursuant to chapter 118, article VI of this Code. The design review board, in reviewing projects proposed for this district, shall take into consideration the contextual relationship of existing and approved projects, and the buildout of the remainder of the district. This section shall be retroactive to include all parcels and buildings existing as of March 18, 2003.

(Ord. No. 89-2665, § 6-2.1(B), eff. 10-1-89; Ord. No. 93-2885, eff. 11-27-93; Ord. No. 97-3097, § 2, 10-8-97; Ord. No. 98-3107, § 1, 1-21-98; Ord. No. 2003-3400, § 1, 3-19-03)

	Front	*Side, Interior*	*Side, Facing a Street*	*Rear*
Tower	20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant. Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231—237 of the Amended Plat of First Ocean Front Subdivision—50 feet	The required pedestal setback plus 0.10 of the height of the tower portion of the building. The total required setback shall not exceed 50 feet	Sum of the side yards shall equal 16% of the lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Non-oceanfront lots—15% of lot depth Oceanfront lots—25% of lot depth, 75 feet minimum from the bulkhead line whichever is greater

(b) In the RM-1, residential district, the ground floor level of a building when viewed from a street shall be screened or enclosed. The method of screening or enclosure shall be approved under the design review process.

(c) In cases where the city commission approves after public hearing a public-private parking agreement for a neighborhood based upon an approved street improvement plan, the minimum front yard setback for parking subject to the agreement shall be zero feet. The street improvement plan must be approved by the design review board if outside an historic district, or the historic preservation board if inside an historic district.
(Ord. No. 89-2665, §§ 6-2(C), 6-5, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 93-2885, eff. 11-27-93; Ord. No. 98-3108, § 2, 1-21-98; Ord. No. 2004-3464, § 1, 11-10-04)

Secs. 142-157—142-180. Reserved.

Subdivision III. RM-PRD Multifamily, Planned Residential Development District

Sec. 142-181. Purpose.

The RM-PRD multifamily, planned residential development district is designed for new construction of low intensity multiple-family planned residential development.
(Ord. No. 89-2665, § 6-2.1(A)(1), eff. 10-1-89; Ord. No. 93-2885, eff. 11-27-93)

Sec. 142-182. Main permitted uses.

The main permitted uses in the RM-PRD multifamily, planned residential development district are single-family detached dwelling; townhomes; and apartments.
(Ord. No. 89-2665, § 6-2.1(A)(2), eff. 10-1-89; Ord. No. 93-2885, eff. 11-27-93)

Sec. 142-183. Conditional uses.

There are no conditional uses in the RM-PRD multifamily, planned residential development district.
(Ord. No. 89-2665, § 6-2.1(A)(3), eff. 10-1-89; Ord. No. 93-2885, eff. 11-27-93)

Sec. 142-184. Accessory uses.

The accessory uses in the RM-PRD multifamily, planned residential development district are as required in article IV, division 2 of this chapter.
(Ord. No. 89-2665, § 6-2.1(A)(4), eff. 10-1-89; Ord. No. 93-2885, eff. 11-27-93)

Sec. 142-185. Development regulations.

The development regulations in the RM-PRD multifamily, planned residential development district are as follows:

(1) Maximum floor area ratio is 1.6.

(2) Minimum lot area is ten acres.

(3) Minimum lot width is not applicable.

(4) Minimum unit size for new construction is 750 square feet.

Sec. 142-216. Development regulations.

The development regulations in the RM-2 residential multifamily, medium intensity district are as follows:

(1) Max. FAR: 2.0.

(Ord. No. 89-2665, § 6-3(B)(1), (2), eff. 10-1-89; Ord. No. 94-2949, eff. 10-15-94; Ord. No. 94-2954, eff. 11-30-94; Ord. No. 98-3107, § 1, 1-21-98; Ord. No. 98-3149, § 1, 11-4-98)

Sec. 142-217. Area requirements.

The area requirements in the RM-2 residential multifamily, medium intensity district are as follows:

Minimum Lot Area (Square Feet)	*Minimum Lot Width (Feet)*	*Minimum Unit Size (Square Feet)*	*Average Unit Size (Square Feet)*	*Maximum Building Height (Feet)*	*Maximum Number of Stories*
7,000	50	New construction—550 Elderly housing: See section 142-1183 Rehabilitated buildings—400 Hotel unit: 15%: 300—335 85%: 335+	New construction—800 Elderly housing: See section 142-1183 Rehabilitated buildings—550 Hotel units—N/A	Historic district—50 (except as provided in section 142-1161) Area bounded by Indian Creek Dr., Collins Ave., 26th St., and 44th St.—75 Area fronting west side of Collins Ave. btwn. 76th St. and 79 St.—75 Otherwise—60 Lots fronting Biscayne Bay less than 45,000 s.f.—100 Lots fronting Biscayne Bay over 45,000 sq. ft.—140 Lots fronting Atlantic Ocean over 100,000 sq. ft.—140	Historic district—5 (except as provided in section 142-1161) Area bounded by Indian Creek Dr., Collins Ave., 26th St., and 44th St.—8 Area fronting west side of Collins Ave. btwn. 76th St. and 79 St.—8 Otherwise—6; Lots fronting Biscayne Bay less than 45,000 s.f.—11 Lots fronting Biscayne Bay over 45,000 sq. ft.—15 Lots fronting Atlantic Ocean over 100,000 sq. ft.—15

(Ord. No. 89-2665, § 6-3(B)(3), eff. 10-1-89; Ord. No. 94-2954, eff. 11-30-94; Ord. No. 97-3097, § 2, 10-8-97; Ord. No. 98-3150, § 1, 11-4-98; Ord. No. 99-3218, § 1, 11-17-99; Ord. No. 2005-3483, § 3, 5-18-05)

Sec. 142-218. Setback requirements.

The setback requirements in the RM-2 residential multifamily, medium intensity district are as follows:

	Front	*Side, Interior*	*Side, Facing a Street*	*Rear*
At-grade parking lot on the same lot except where (b) below is applicable	20 feet	5 feet, or 5% of lot width, whichever is greater	5 feet, or 5% of lot width, whichever is greater	Non-oceanfront lots—5 feet Oceanfront lots—50 feet from bulkhead line
Subterranean	20 feet	5 feet, or 5% of lot width, whichever is greater. (0 feet if lot width is 50 feet or less)	5 feet, or 5% of lot width, whichever is greater	Non-oceanfront lots—0 feet Oceanfront lots—50 feet from bulkhead line
Pedestal	20 feet Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231-237 of the Amended Plat of First Ocean Front Subdivision—50 feet	Sum of the side yards shall equal 16% of lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Sum of the side yards shall equal 16% of lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Non-oceanfront lots—10% of lot depth Oceanfront lots—20% of lot depth, 50 feet from the bulkhead line whichever is greater

Sec. 142-212. Main permitted uses.

The main permitted uses in the RM-2 residential multifamily, medium intensity district are single-family detached dwellings; townhomes; apartments; apartment-hotels; and hotels.
(Ord. No. 89-2665, § 6-3(A)(2), eff. 10-1-89; Ord. No. 95-3020, eff. 11-4-95; Ord. No. 96-3050, § 2, 7-17-96)

Sec. 142-213. Conditional uses.

Conditional uses in the RM-2 residential multifamily, medium intensity district are adult congregate living facility; day care facility; nursing home; religious institutions; private and public institutions; schools; commercial or noncommercial parking lots and garages; and accessory neighborhood impact establishment, as set forth in article V, division 6 of this chapter.
(Ord. No. 89-2665, § 6-3(A)(3), eff. 10-1-89; Ord. No. 95-3020, eff. 11-4-95; Ord. No. 96-3050, § 2, 7-17-96)

Sec. 142-214. Accessory uses.

The accessory uses in the RM-2 residential multifamily, medium intensity district are as required in article IV, division 2 of this chapter and uses that serve alcoholic beverages as listed in article V, division 4 of this chapter, pertaining to alcoholic beverages.
(Ord. No. 89-2665, § 6-3(A)(4), eff. 10-1-89; Ord. No. 95-3020, eff. 11-4-95; Ord. No. 96-3050, § 2, 7-17-96)

Sec. 142-215. Prohibited uses.

The prohibited uses in the RM-2 residential multifamily, medium intensity district are accessory outdoor entertainment establishment, accessory open air entertainment establishment, as set forth in article V, division 6 of this chapter; and accessory outdoor bar counter.
(Ord. No. 89-2665, § 6-3(A)(5), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96)

	Front	*Side, Interior*	*Side, Facing a Street*	*Rear*
Tower	20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant. Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231—237 of the Amended Plat of First Ocean Front Subdivision—50 feet	The required pedestal setback plus 0.10 of the height of the tower portion of the building. The total required setback shall not exceed 50 feet	Sum of the side yards shall equal 16% of the lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Non-oceanfront lots—15% of lot depth Oceanfront lots—25% of lot depth, 75 feet minimum from the bulkhead line whichever is greater

(b) In cases where the city commission approves after public hearing a public-private parking agreement for a neighborhood based upon an approved street improvement plan, the minimum front yard setback for parking subject to the agreement shall be zero feet. The street improvement plan must be approved by the design review board if outside an historic district, or the historic preservation board if inside an historic district.
(Ord. No. 89-2665, §§ 6-3(C), 6-5, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 93-2885, eff. 11-27-93; Ord. No. 94-2954, eff. 11-30-94; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 98-3108, § 2, 1-21-98; Ord. No. 2004-3464, § 2, 11-10-04)

Secs. 142-219—142-240. Reserved.

Subdivision V. RM-3 Residential Multifamily, High Intensity

Sec. 142-241. Purpose.

The RM-3 residential multifamily, high intensity district is designed for high intensity multiple-family residences and hotels.
(Ord. No. 89-2665, § 6-4(A)(1), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96)

Sec. 142-242. Main permitted uses.

The main permitted uses in the RM-3 residential multifamily, high intensity district are single-family detached dwelling; townhomes; apartments; apartment-hotels; and hotels.
(Ord. No. 89-2665, § 6-4(A)(2), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96)

Sec. 142-243. Conditional uses.

The conditional uses in the RM-3 residential multifamily, high intensity district are adult congregate living facility; day care facility; nursing home; religious institutions; private and public institutions; schools; commercial or noncommercial parking lots and garages; accessory outdoor entertainment establishment; accessory neighborhood impact establishment; and accessory open air entertainment establishment as set forth in article V, division 6 of this chapter.
(Ord. No. 89-2665, § 6-4(A)(3), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96)

Sec. 142-244. Accessory uses.

The accessory uses in the RM-3 residential multifamily, high intensity district are as follows:

(1) Those uses permitted in article IV, division 2 of this chapter.

(2) Uses that serve alcoholic beverages as listed in article V, division 4 of this chapter, pertaining to alcoholic beverages.

(3) Accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.

(4) Oceanfront hotels with at least 100 hotel units may operate and utilize an accessory outdoor bar counter, notwithstanding the above restriction on the hours of operation, provided the accessory outdoor bar counter is (i) located in the rear yard, and (ii) set back 20 percent of the lot width (50 feet minimum) from any property line adjacent to a property with an apartment unit thereon.

(Ord. No. 89-2665, § 6-4(A)(4), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96)

Sec. 142-245. Prohibited uses.

The prohibited use in the RM-3 residential multifamily, high intensity district is accessory outdoor bar counter, except as provided in section 142-244.

(Ord. No. 89-2665, § 6-4(A)(5), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96)

Sec. 142-246. Development regulations and area requirements.

(a) The development regulations in the RM-3 residential multifamily, high intensity district are as follows:

(1) Max. FAR: Lot area equal to or less than 45,000 sq. ft.—2.25; Lot area greater than 45,000 sq. ft.—2.75; Oceanfront lots with lot area greater than 45,000 sq. ft.—3.0.

(2) Notwithstanding the above, oceanfront lots in architectural district shall have a maximum FAR of 2.0.

(3) Notwithstanding the above, lots which, as of the effective date of this ordinance (November 14, 1998), are oceanfront lots with a lot area greater than 100,000 sq.ft. with an existing building, shall have a maximum FAR of 3.0; however, additional FAR shall be available for the sole purpose of providing hotel amenities as follows: the lesser of 0.15 FAR or 20,000 sq.ft.

(b) The lot area, lot width, unit size and building height requirements for the RM-3 residential multifamily, high intensity district are as follows:

Minimum Lot Area (Square Feet)	*Minimum Lot Width (Feet)*	*Minimum Unit Size (Square Feet)*	*Average Unit Size (Square Feet)*	*Maximum Building Height (Feet)*	*Maximum Number of Stories*
7,000	50	New construction—550 Elderly housing: See section 142-1183 Rehabilitated buildings—400 Hotel unit: 15%: 300—335 85%: 335+	New construction—800 Elderly housing: See section 142-1183 Rehabilitated buildings—550 Hotel units—N/A	150 Oceanfront lots—200 Architectural dist.: New construction—120; ground floor additions (whether attached or detached) to existing structures on oceanfront lots—50 (except as provided in section 142-1161)	16 Oceanfront lots—22 Architectural dist: New construction—13; ground floor additions (whether attached or detached) to existing structures on oceanfront lots—5 (except as provided in section 142-1161)

(Ord. No. 89-2665, § 6-4(B), eff. 10-1-89; Ord. No. 94-2949, eff. 10-15-94; Ord. No. 94-2954, eff. 11-30-94; Ord. No. 97-3097, § 2, 10-8-97; Ord. No. 98-3107, § 1, 1-21-98; Ord. No. 98-3149, § 1, 11-4-98; Ord. No. 98-3150, § 1, 11-4-98; Ord. No. 2000-3233, § 1, 3-4-00; Ord. No. 2005-3483, § 4, 5-18-05)

Sec. 142-247. Setback requirements.

The setback requirements for the RM-3 residential multifamily, high intensity district are as follows:

	Front	*Side, Interior*	*Side, Facing a Street*	*Rear*
At-grade parking lot on the same lot	20 feet	5 feet, or 5% of lot width, whichever is greater	5 feet, or 5% of lot width, whichever is greater	Non-oceanfront lots—5 feet Oceanfront lots—50 feet from bulkhead line

DIVISION 15. TH TOWNHOME RESIDENTIAL DISTRICT

Sec. 142-601. Purpose.

The TH townhome residential district is designed to accommodate townhome developments.
(Ord. No. 89-2665, § 6-18(A)(1), eff. 10-1-89)

Sec. 142-602. Main permitted uses.

The main permitted uses in the TH townhome residential district are single-family detached dwellings; and townhomes.
(Ord. No. 89-2665, § 6-18(A)(2), eff. 10-1-89)

Sec. 142-603. Conditional uses.

There are no conditional uses in the TH townhome residential district.
(Ord. No. 89-2665, § 6-18(A)(3), eff. 10-1-89)

Sec. 142-604. Accessory uses.

The accessory uses in the TH townhome residential district are those noncommercial uses customarily associated with townhome developments, including floor area associated with public uses that are open to the general public. However, projects that exceed 200 units may have ten percent of the floor area of the project as retail uses. See article IV, division 2 of this chapter.
(Ord. No. 89-2665, § 6-18(A)(4), eff. 10-1-89)

Sec. 142-605. Development regulations.

The development regulations in the TH townhome residential district are as follows:

(1) Maximum floor area ratio is 0.70.

(2) Minimum lot area is 5,000 square feet.

(3) Minimum lot width is 50 feet.

(4) Minimum apartment unit size is 900 square feet.

(5) Average apartment unit size is 1,100 square feet.

(6) Maximum building height is 40 feet (except as provided in section 142-1161).

(7) Maximum number of stories is four (except as provided in section 142-1161).

(Ord. No. 89-2665, § 6-18(B), eff. 10-1-89; Ord. No. 97-3097, § 2, 10-8-97; Ord. No. 98-3107, § 1, 1-21-98; Ord. No. 98-3150, § 1, 11-4-98)

Sec. 142-606. Setback requirements.

The setback requirements for the TH townhome residential district are as follows:

(1) Front yard: 20 feet.

(2) Side yard: 15 feet between buildings; 15 feet on sides facing a street; 7.5 feet for interior sides.

(3) Rear yard: 20 feet minimum.

(4) In cases where the city commission approves after public hearing a public-private parking agreement for a neighborhood based upon an approved street improvement plan, the minimum front yard setback for parking subject to the agreement shall be zero feet. The street improvement plan must be approved by the design review board if outside an historic district, or the historic preservation board if inside an historic district.

(Ord. No. 89-2665, § 6-18(C), eff. 10-1-89; Ord. No. 2004-3464, § 3, 11-10-04)

Sec. 142-607. Design review.

All townhome projects shall be reviewed pursuant to the design review procedures as set forth in chapter 118, article VI.
(Ord. No. 89-2665, § 6-18(D), eff. 10-1-89)

Secs. 142-608—142-630. Reserved.

DIVISION 16. WD-1 WATERWAY DISTRICT*

Sec. 142-631. Purpose.

The WD-1 waterway district is designed to create a landscaped environment with uses that are of desirable character and in harmony with the waterway and the upland development.
(Ord. No. 89-2665, § 6-19(A)(1), eff. 10-1-89)

*Cross reference—Marine structures, facilities and vehicles, ch. 66.

Sec. 142-599. Setback requirements.

(a) The setback requirements for the RO-3 residential/office medium intensity district are as follows:

	Front	*Side, Interior*	*Side, Facing a Street*	*Rear*
At-grade parking lot on the same lot	20 feet	5 feet, or 5% of lot width, whichever is greater	5 feet, or 5% of lot width, whichever is greater	Non-oceanfront lots—5 feet Oceanfront lots—50 feet from bulkhead line
Subterranean	20 feet	5 feet, or 5% of lot width, whichever is greater (0 feet if lot width is 50 feet or less)	5 feet, or 5% of lot width, whichever is greater	Non-oceanfront lots—0 feet Oceanfront lots—50 feet from bulkhead line
Pedestal	20 feet Except lots A and 1—30 of Amended Plat Indian Beach Corporation Subdivision and lots 231-237 of the Amended Plat of First Ocean Front Subdivision—50 feet	Sum of the side yards shall equal 16% of lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Sum of the side yards shall equal 16% of lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Non-oceanfront lots—10% of lot depth Ocean front lots—20% of lot depth, or 50 feet from the bulkhead line, whichever is greater
Tower	20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant. Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231—237 of the Amended Plat of First Ocean Front Subdivision—50 feet	The required pedestal setback plus 10% of the height of the tower portion of the building. The total required setback shall not exceed 50 feet	Sum of the side yards shall equal 16% of the lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Non-oceanfront lots—15% of lot depth Oceanfront lots—25% of lot depth, or 75 feet minimum from the bulkhead line, whichever is greater

(b) In the RO-3 residential/office medium intensity district, the ground floor level of a building when viewed from a street shall be screened or enclosed. The method of screening or enclosure shall be approved under the design review process.
(Ord. No. 99-3215, § 1, 11-17-99)

Sec. 142-600. Reserved.

Short Term Rentals of Apartments

Q: Is there a minimum rental period for apartments? Can an apartment be rented for less than six months if it's not licensed as a hotel?

A: Apartments are for permanent occupancy, and Hotel Rooms are for transient occupancy. Stays of six months or longer are considered permanent occupancy. Stays of less than six months are considered as transient occupancy and require the payment of hotel resort taxes. Accordingly, the minimum rental period for apartments is six months.

For rentals of less than six months, the units must be licensed by the City as hotel rooms. This is not a problem in zoning districts which allow hotels. In districts which don't permit hotels, such as the RM-1 Residential Multifamily Low Intensity district (Flamingo Park, etc.), short term rentals less than six months are prohibited, because hotels are not a permitted use.

The Oceanfront area is generally zoned RM-3 Residential Multifamily High Intensity, which allows hotels.

Q: What is the difference between Hotel Rooms and Apartments?

A: Apartments are for permanent occupancy, and Hotel Rooms are for transient occupancy. The City Code specifies a minimum unit size for apartments and for hotel rooms. In existing buildings, Apartments must be at least 400 square feet, and must have full cooking facilities, which means at least a two-burner stove. Hotel rooms can be as small as 300 square feet, and can only have a small refrigerator and a microwave oven. Larger hotel rooms, over 550 square feet, can also have cooking facilities.

Apartment units may qualify for homestead exemption from the County Tax Assessor's office. Hotel rooms do not qualify for homestead exemption.

It is important to determine whether a unit is an apartment or a hotel room, as this information bears on whether the unit can be lived in permanently, can have a kitchen, can qualify for homestead exemption, etc. The status of an existing unit can be found in City of Miami Beach Building and Licensing records.

Sec. 114-1 Definitions
Apartment unit means a room, or group of rooms, occupied or intended to be occupied as separate living quarters by one family and containing independent cooking and sleeping facilities. (Term includes condominium)

Hotel means a building occupied or intended to be occupied by transient residents, with all residents occupying hotel units and where ingress or egress may or may not be through a common lobby or office that is supervised by a person in charge at all times.

Hotel unit means a room, or group of rooms, with ingress or egress which may or may not be through a common lobby, intended for rental to transients on a day-to-day, week-to-week, or month-to-month basis, not intended for use or used as a permanent dwelling and without cooking facilities. (This term includes a suite hotel unit, see section 142-1105.)

Sec. 102-306. Definitions
Permanent resident means any person who has resided in the city for longer than six consecutive months.

Sec. 102-308. Exemptions from tax.
No tax shall be imposed upon:
(3) Any rents paid by a permanent resident on his permanent place of abode, provided that no permanent resident shall be permitted to have more than one exemption during the same period of time. No tax shall be imposed on any rents paid by a lessee, or the individual occupant with a written lease for a term longer than six months provided that the lessee, or the individual occupant authorized by the lease to occupy the premises, actually occupies the premises on a continuous basis for longer than six months. Tax shall be imposed on any rents paid by a lessee or individual occupant during the first six months of the occupancy term unless there is a written lease for a period longer than six months, and provided that the lessee, or the individual occupant authorized by the lease to occupy the premises, actually occupies the premises on a continuous basis for longer than six months.

Sec. 142-1411. Home based business office...a "permanent resident" shall mean a person residing in a single family residence or apartment unit for no less than six months per calendar year.

Sec. 142-246. Development regulations and area requirements.
Minimum Unit Size (Square Feet)
New construction—550
Rehabilitated buildings—400
Hotel unit: 15%: 300--335 85%: 335+

CITY ATTORNEY'S MEMORANDUM DATED JANUARY 23, 2006; #4 (URGE THE LEGISLATURE TO STRENGTHEN THE CONDO ACT) ITEMS (a) – (f)

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CITY OF MIAMI BEACH
OFFICE OF THE CITY ATTORNEY

MEMORANDUM

TO: Mayor David Dermer
Members of the City Commission
Jorge Gonzalez, City Manager

FROM: Murray H. Dubbin
City Attorney

Debora J. Turner
First Assistant City Attorney

SUBJECT: The Jurisdiction of Local Governments under the Florida Condominium Act

DATE: January 23, 2006

Pursuant to the request of Mayor David Dermer at the December 7, 2005 Commission meeting, the following memorandum was prepared to address questions concerning the jurisdiction of the City to enact reforms in the area of condominium conversions. Section A provides a general legal analysis of applicable preemption and conflict issues, Section B addresses the specific limitations of local governments under the Florida Condominium Act, and Section C proposes possible solutions given the limited parameters of local government action in this area.

A. IN GENERAL: PREEMPTION AND CONFLICT ISSUES

Legislation may be enacted concurrently by both state and local governments in areas not preempted, either expressly or implied, by the state, and as long as the local concurrent legislation does not conflict with state law. City of Miami Beach v. Rocio Corp., 404 So. 2d 1066, 1070 (Fla. 3rd DCA 1981)[1]. Preemption by the state need not be explicit, so long as it is

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[1] In Rocio, the Third District, interpreting the 1979 Florida Condominium Act, which pre-dated the Roth Act (Part IV of Chapter 718 entitled "Conversions to Condominium"), found that although the 1979 version of the Act did not expressly, or by implication, preempt the subject of condominium conversion to state government, a City of Miami Beach ordinance conflicted with state law because conduct permitted by the State was not allowed by the City ordinance via the imposition of a supplementary burden (i.e., a 90 day moratorium on conversions). Therefore, the City's ordinance was enjoined from enforcement. Subsequently, the State Legislature addressed the problem when it enacted the Roth Act. That Act gave counties the authority to enact legislation to provide for lease extensions when shortages in rental units were due to condominium conversions. Both Dade and Broward Counties enacted such limited legislation in 1980. See § 17-01, Miami-Dade County Code; §§ 5-299 thru 5-301, Broward County Code.

clear that the legislature has clearly preempted local regulation of the subject." City of Miami v. Wellman, 875 So. 2d 635, 640. (Fla. 3d DCA 2004). For example, courts may "imply" preemption when "the legislative scheme is so pervasive as to evidence an intent to preempt the particular area and where strong public policy reasons exist for finding an area to be preempted by the Legislature." Tallahassee Memorial Regional Medical Center, Inc. v. Tallahassee Medical Center, Inc., 681 So. 2d 826, 831 (Fla. 1st DCA 1996) (citing Tribune Co. v. Cannella, 458 So. 2d 1075 (Fla. 1984)).[2] Moreover, preemption may not completely bar a local government from regulating on a subject, but may exist only as to narrow topics within a broader topic of a state law. See Phantom of Clearwater v. Pinellas County, 894 So. 2d 1011, 1019-1021 (Fla. 1st DCA 2005) (although county was not preempted entirely from legislating in area of fireworks, some aspects of state law arguably preempted county and certain penalty provisions of county ordinance were found to be in conflict with state law).

B. THE FLORIDA CONDOMINIUM ACT LIMITS LOCAL GOVERNMENT REGULATION

Under the current version of Florida Condominium Act contained in Chapter 718 of the Florida Statutes, extensive and comprehensive regulations for condominiums and conversions are provided. Although not entirely preempting local regulations in this area, the Act only authorizes local government to act in certain limited areas. For example, Section 718.606(6) allows counties to enact legislation to extend rental agreements where there is a "grave housing emergency;" Section 718.507 provides that local building and zoning laws must not discriminate as to the condominium form of ownership and must apply equally to all buildings and improvements of the same kind;[3] and Section 718.616(4) requires a developer to file, with its disclosure, a letter issued by a municipality which acknowledges compliance with the applicable zoning requirements. The Act does not specifically authorize local governments to enact legislation which would be more restrictive than the State's requirements.[4] Moreover, in 1998, the Florida Legislature enacted Section 718.621 which specifically authorized the Division of Florida Land Sales, Condominiums, and Mobile Homes (the "Division") to promulgate rules

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[2] "If there is any doubt as to the extent of a power attempted to be exercised which may affect the operation of a state statute, the doubt is to be resolved against the ordinance and in favor of the statute." Wellman, 875 So. 2d at 640 (citing Rocio, 404 So. 2d at 1069 (Fla. 3d DCA 1981).

[3] See Lifter v. Metropolitan Dade County, 482 So. 2d 479 (Fla. 3d DCA 1986) (county zoning ordinance requiring notice from subdividers of hotels and motels of continued compliance with density and parking requirements did not conflict with Condominium Act).

[4] Examples of state laws that have expressly allowed local government to enact more restrictive laws include Section 553.73(4)(b) of the Florida Building Code which authorizes local governments to adopt "more stringent" technical provisions "than those specified in the Florida Building Code." See also GLA and Assoc.s, Inc. v. City of Boca Raton, 855 So. 2d 278 (Fla. 4th DCA 2003) (city ordinance providing stricter setback requirements not preempted by state Shore Preservation Act where Act expressly authorized municipalities to impose setback requirements "equal to, or more strict than" the Act).

concerning condominium conversions.

For all of the foregoing reasons, local governments are limited in their ability to regulate condominium conversions and may be precluded from adopting legislation that would impose stricter condominium conversion requirements.[5] Moreover, regardless of the extent to which local governments may be preempted under the Condominium Act, local regulations concerning condominium conversion requirements cannot be adopted that would conflict with state law. See Pinellas County; Rocio.

In view of the foregoing, the following local solutions may be explored to address concerns with regard to condominium conversions and to provide additional safeguards to the public

C. PROPOSED SOLUTIONS TO CONDOMINIUM CONVERSION CONCERNS

1. Adopt Stricter Building Code Requirements

Amendments to the City Code could be considered that would apply evenly to all buildings on Miami Beach. The building recertification process for historic buildings is currently going through the Committee process. This proposal would require all buildings older than 40 years to be recertified every 5 years.

2. Expand Content of Municipal "Zoning Letter"

Rudolph Prinz, Bureau Chief for the Standards and Registration Division of the Department of Business and Professional Regulation, has suggested that a zoning "letter," required to be issued by a municipality pursuant to Section 718.616(4), Fla. Stat., can provide other information, in addition to that regarding "compliance with applicable zoning requirements". In such zoning "letter," a municipality can notify the State of any problems or special consideration which should be given to a particular conversion application because the condition of the building may not be fully or accurately reflected in the architect or engineer's report. As explained by Mr. Prinz, a municipality's "zoning letter" may be used, and has been used, as an opportunity to advise the State of concerns which can then be addressed at the State level and which could trigger the State to require "other" information pursuant to Section 718.502(5), Fla. Stat., in the developer's offering statement. Specifically, Section 718.502(5) states that "[i]n addition to those disclosures described by s.s. 718.503 and 718.504, the Division is authorized to require such other disclosure as deemed necessary to fully or fairly disclose all aspects of the offering."

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[5] The General Counsel for the Department of Business and Professional Regulation, concurs with our concern relative to the adoption of legislation that would impose stricter restrictions on condominium conversions as such may be preempted by, or conflict with, state law.

3. Public Education and Notification

The City's communication with Condominium residents can be expanded with regard to City-issued code violations. Efforts could include, community workshops, improved website communications, and visible posting of condominium violations.

4. Urge the Legislature to Strengthen the Condominium Act

A local government can lobby its legislators to make specific changes to Chapter 718. For example, disclosure requirements could be strengthened by the State to address concerns that: a) sufficient information is not currently provided on the report required under Section 718.616; b) the report that is submitted should go through a more thorough analysis or review when received by the State; c) condominium documents should be required to reflect restrictions on unit sizes and uses; require that all purchasers have this disclosed to them in writing and that they execute an acknowledgement to such restrictions; d) disclosure be provided in writing by realtors, registered agents, and/or other professionals involved in marketing and selling hotel/condominium units to prospective purchasers of any and all restrictions and code violations; e) encourage the State to create the statutory provisions to allow conduit financing through counties and municipalities to provide for interest free loans to condominiums to correct significant building, fire, and/or life safety violations at no risk to the participating local government (similar to Industrial Revenue Bonds); and f) encourage the State to create a grant program to partially offset the costs of building, fire, and life-safety related significant renovations for older structures.

5. Amend the City's Occupational License Code Provisions

Provisions could be considered that would require condominium associations, at license renewal, to provide confirmation that all unit owners have been provided notice of all code violations in the building's common areas.

6. Modify the City's Lien Search and Violation Search Request Forms

These forms could be modified to encourage the requestor to seek information on common areas in a building in addition to a prospective unit. (This has already been implemented).

7. Create a Community-Based Task Force

A task force could discuss the foregoing ideas and/or generate additional ideas to recommend to the City Commission. (A Commission Task Force has already been created).

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CITY OF MIAMI BEACH
City Attorney's Office
Memorandum

TO: Tim Hemstreet
Assistant City Manager

Dolores Mejia
Special Projects Administrator

FROM: Debora J. Turner
First Assistant City Attorney

RE: State Legislative Efforts regarding Condominiums

DATE: March 1, 2006

Enclosed for your review, please find an article from the Sun-Sentinel dated February 27, 2006 regarding proposed legislation regarding condominiums.

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CITY MANAGER'S OFFICE
BY

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UNIVERSITY OF MIAMI

Advisers to help peers handle student government trials

BY JENNIFER PELTZ
STAFF WRITER

Its jurisdiction may be limited to a 230-acre swath of Coral Gables. And its docket may be light — generally a few cases per year.

But the University of Miami student government's Supreme Court is not without consequence. Enough of it, student leaders think, to warrant the campus equivalent of public defenders at the court's trials, which mostly concern student government elections.

Wherefore: Should candidates in this week's balloting run afoul of, say, campus statute Chapter IV, Section 5-1.3(1), they and their accusers can call in a "trial adviser," a fellow student trained to help them. The first four advisers were appointed this month.

The volunteer advisers bring experience in mock trials, student government or political groups. They'll be involved only in disputes about the interpretation and enforcement of the student government's own regulations, not disciplinary or academic proceedings. But they'll be able to call witnesses and make opening statements and closing arguments, says the student court's chief justice, Annette Ponnock.

■ TRIALS CONTINUES ON 4B

Annette Ponnock is chief justice of UM's student government Supreme Court.

Condo, homeowner association bills head to debate in capital

BY JOE KOLLIN
STAFF WRITER

The fight has begun.

Bills that would make major changes to laws regulating homeowner and condo associations have been filed and are drawing wrath as legislators prepare for the annual 60-day legislative session that begins March 7.

The most controversial proposals include limiting terms of board members to four years, making it illegal for directors and managers to "abuse" residents, banning associations from filing liens and foreclosures for amounts under $2,500, and making it less profitable for association attorneys to file liens and foreclosures for small amounts.

Representing boards again this year is the Community Association Leadership Lobby, or CALL, an arm of the Fort Lauderdale-based Becker & Poliakoff law firm.

On the other side is Cyber Citizens for Justice, or CCFJ, a grassroots organization for unit owners.

Taking over the job of steering bills friendly to unit owners through the Legislature is Rep. Rene Garcia, R-Hialeah.

Garcia last week filed a far-reaching and already controversial bill that would, among many other things, require condo boards to provide safety inspections of buildings every five years and limit terms of directors (HB 1227). No Senate version has been filed.

The bill drew the wrath of CALL.

"It's almost like they're trying to be provocative — are they trying to get the bill

■ CONDOS CONTINUES ON 4B

INSIDE

List of proposed condo laws that will go before the Legislature. **4B**

FUNCTIONAL FOODS
They're popular but do they serve a real function? WB39 News at 10 tonight.

ILLEGAL IN S. FLORIDA
Hear from undocumented immigrants, their supporters and detractors, at 11 p.m.

Sun-Sentinel.com SPRING TRAINING GUIDE
Take a day or even a weekend to catch baseball's Spring Training. Go to Sun-Sentinel.com to see where to go and what to doalong both Florida coasts.

WEATHER WATCH

YESTERDAY	HI/LO/PRCP	YESTERDAY	HI/LO/PRCP
Boca Raton	79/76/.05"	Key West	81/68/.16"

Miami International High/Low 12 hours ending 5 p.m. 81/68

YESTERDAY IN SOUTH FLORIDA

Fort Lauderdale/Hollywood Int'l	High/Low 12 hours ending 5 p.m. 80/65
Palm Beach International	[illegible]

OKEECHOBEE LEVELS (IN FEET)	
Actual	15.38
Regulation	14.27

AREA	WIND	SPEED	SEAS	CONDITIONS
St. Augustine to Jupiter Inlet	E	10-15	6-9	Choppy
Jupiter Inlet to Key Largo	NE	10-20	4-6	Choppy
Key Largo to Dry Tortugas	NE	10-20	2-4	Moderate chop
Cape Sable to Tarpon Springs	NE	10-20	2-4	Moderate chop

SUN-SENTINEL COMPANY

CONDO/HOMEOWNER ASSOCATION BILLS

The following bills are among those filed for debate during the 60-day legislative session that begins on March 7. Progress of bills can be followed on the state Legislature's Web site, www.leg.state.fl.us.

Abusing owners. Makes it illegal to abuse condo residents, especially the infirm and elderly. Requires the state to investigate complaints and take civil action, such as imposing fines, against abusers. HB 1227.

Limiting terms. Condo board members could serve no more than four years; co-owners of a unit can't serve on the board at the same time during the same fiscal year. HB 1227.

Protecting rights. Condo unit owners couldn't be successfully sued for exercising their right to complain to a government authority about what their association is doing. If sued, owners could get the case dismissed swiftly and receive triple damages from those filing the suit. HB 1227.

Opening government. In homeowner associations, business conducted by any committee that spends money or approves or disapproves architectural changes must be open to all owners. HB 391. Condo boards would no longer have the right to ignore owners with frequent questions. HB 1227.

Liens and foreclosing. Condo liens and foreclosures can't be brought for unpaid condo assessments of less than $2,500 and the owner would be required to get 180 days rather than 30 days notice. SB 586. In homeowner associations, the board can't sue to foreclose a lien if the debtor is entitled to homestead exemption. HB 391. Attorneys would be further down the list of the order of who gets paid, a move to make it more difficult for them to collect fees. HB 1227.

Reserving funds. Homeowner associations would be required to maintain reserve funds for major maintenance such as roofs, building painting and pavement resurfacing but owners, at an official meeting of the association, could vote to waive them. HB 391.

Inspecting. Every condo board would be required to have buildings inspected every five years by a professional engineer or architect to make sure it is structurally and electrically safe. HB 1227.

Discussing. Homeowner association owners have the right to speak at board meetings about all items printed on the agenda. HB 391. Condo boards must put items on their agenda when 20 percent of owners sign a petition requesting it. HB 1227.

Mediating. Disputes between homeowner association owners and their boards over assessments, fines or other financial matters no longer must be mediated but would go right

For more information:

Community Association Leadership Lobby (CALL), www.callbp.com

State of Florida Condo Ombudsman, www.myflcondo.org

Cyber Citizens for Justice, www.ccfj.net

State Department of Business & Professional Regulation's condo unit, www.state.fl.us/dbpr/lsc/condominiums/index.shtml

Community Associations Institute, www.caionline.org

State Rep. Rene Garcia, R-Hialeah, garcia.rene@myfloridahouse.com

Condo associations, owners gird for fight

■ CONDOS

CONTINUED FROM PAGE 1B

passed or trying to [anger] people?" said Donna Berger, executive director of CALL.

She is backing her organization's leave-things-alone position with a poll taken last year of unit owners that she said proves the changes aren't necessary.

"There is clearly a 'silent majority' of reasonable and responsible owners in condo, homeowner and other community associations who support their boards and who favor strict enforcement of the rules and regulations," she said. "The views of anti-board individuals and groups are clearly in the minority statewide."

Jan Bergemann of Deland, president of CCFJ, said CALL's survey doesn't paint a true picture of condo life and statistically isn't relevant because answers came from only 297 respondents.

"They can come up with as many polls as they want. Daily life shows a totally different picture," Bergemann said.

He is optimistic that Garcia's bill, which his organization strongly supports, will become law.

State condo ombudsman Virgil Rizzo agrees with CALL that condo life has improved. But he said the reason is his monitoring of condo elections, as required by the law creating his office.

Fair elections means owners are getting directors who have their interests at heart, he said, adding "this has relegated condo wars to a thing of the past."

But Rizzo said new laws are needed, such as one to prevent the "abuse" of residents by directors and managers.

Not included in this year's proposals so far is what some legislators promised last year, bringing the same kind of state regulation they provide condos to homeowner associations. They have been reluctant to regulate homeowner associations because they say the state Department of Business & Professional Regulation isn't capable of assuming the additional responsibility.

That disappoints Bea Demner, who owns a home in Wed-

of up to $50 per day up to 10 days for failing to let her see the records.

The board wouldn't respond and there is no state agency to make it comply.

"So what good are the statutes?" she said. "What good is the Legislature sitting down and writing laws if there is no one to enforce them?"

Joe Kollin can be reached at jkollin@sun-sentinel.com or 954-385-7913.

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■ TRIALS

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"It's going to mal much more by-the-b Ponnock, a politica major and premed "The people coming l court will be b presented, and I feel to make the election trials much more fair.

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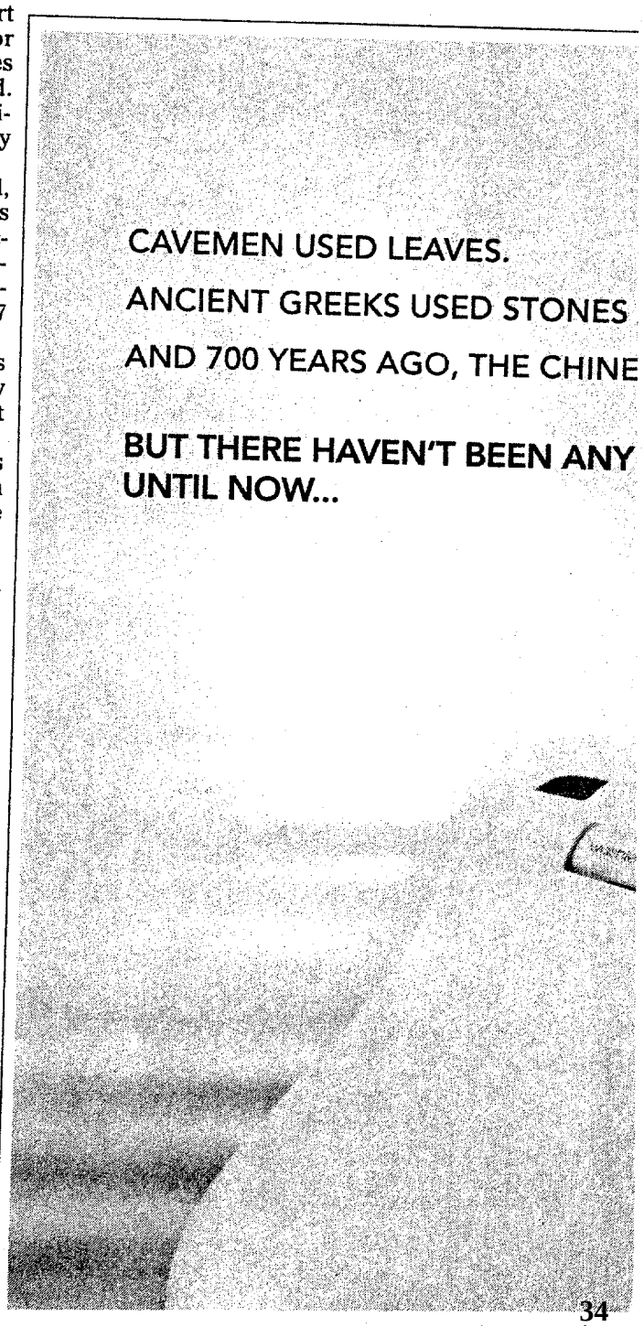

Inspecting. Every condo board would be required to have buildings inspected every five years by a professional engineer or architect to make sure it is structurally and electrically safe. HB 1227.

Discussing. Homeowner association owners have the right to speak at board meetings about all items printed on the agenda. HB 391. Condo boards must put items on their agenda when 20 percent of owners sign a petition requesting it. HB 1227.

Mediating. Disputes between homeowner association owners and their boards over assessments, fines or other financial matters no longer must be mediated but would go right to court. HB 391. The state condo ombudsman would be able to order, not just encourage, owners, directors and managers to meet to resolve their disputes before mediation or arbitration is required. HB 1227.

Rebuilding. Provides a way to end the existence of a condo association without needing the approval of 100 percent of the owners following a hurricane or other natural catastrophe. HB 543; SB 1556.

Empowering the ombudsman. The ombudsman could recommend that the state Department of Business & Professional Regulation file suit against any developer, association or director believed to be guilty of misconduct and the state would be required to act expeditiously. HB 1227.

Electing officers. When 15 percent of unit owners petition the ombudsman to monitor an election, associations couldn't reject the monitor or interfere. HB 1227.

Canceling/creating councils. The Advisory Council on Condominiums, created in 2004, would be abolished and replaced by the Advisory Council on Mandated Properties, to represent both condos and homeowner associations. The governor, president of the Senate and speaker of the House would appoint members. HB 1227.

Advising. Notice that a condo board plans to amend the declarations must be sent to each unit owner by certified mail. HB 1227.

COMPILED FROM STATE DOCUMENTS

adding "this has relegated condo wars to a thing of the past."

But Rizzo said new laws are needed, such as one to prevent the "abuse" of residents by directors and managers.

Not included in this year's proposals so far is what some legislators promised last year, bringing the same kind of state regulation they provide condos to homeowner associations. They have been reluctant to regulate homeowner associations because they say the state Department of Business & Professional Regulation isn't capable of assuming the additional responsibility.

That disappoints Bea Demner, who owns a home in Wedgewood Estates, a homeowner association community in Boca Raton.

She said she asked to see the association's insurance policies and its books.

She said she even advised the board it is subject to a fine

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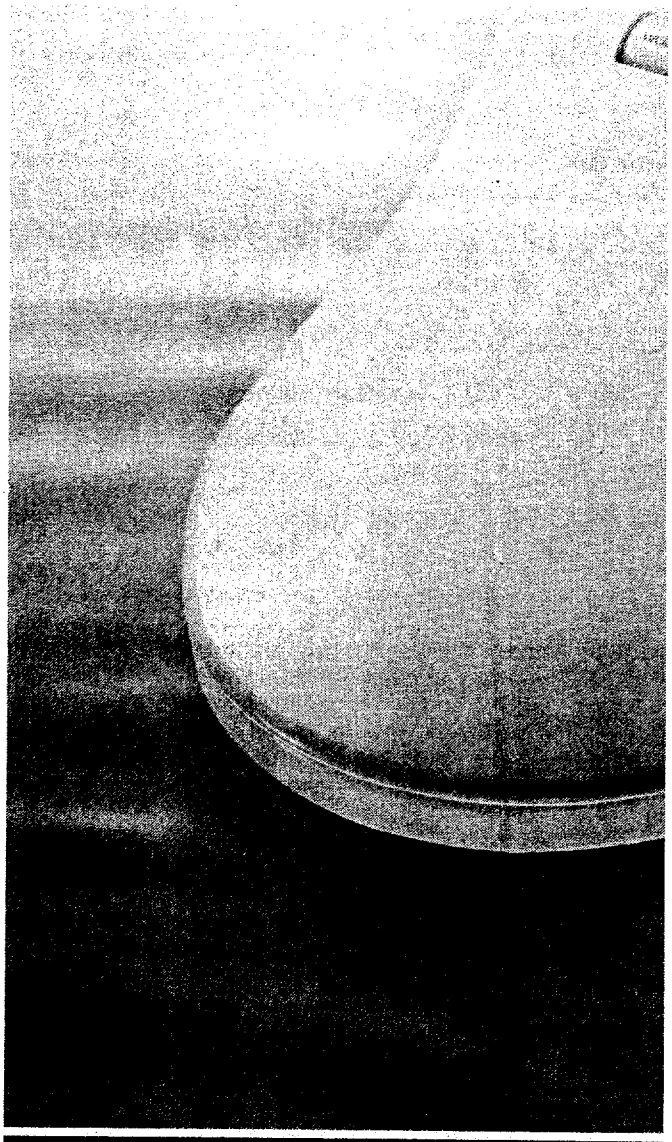

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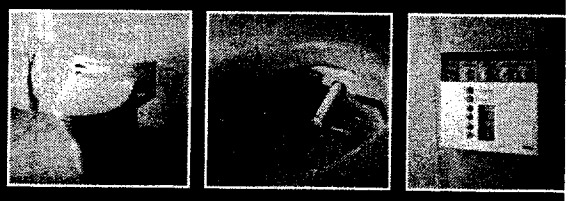

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MINUTES OF THE FEBRUARY 21, 2006 AD HOC CONDO REFORM TASKFORCE

ITEM THREE

MIAMIBEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

MEMORANDUM

TO: Mayor David Dermer and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: March 14, 2006

SUBJECT: **MINUTES OF THE AD HOC CONDOMINIUM REFORM TASKFORCE MEETING OF FEBRUARY 21, 2006**

The meeting of the Adhoc Condominium Reform Taskforce was held on Tuesday, February 21, 2006. **The attendees were as follows:** Taskforce members Commissioner Matti Herrera Bower, Commissioner Luis R. Garcia, Jr., Alex Annunciato, Nina Baliga, Frank Del Vecchio, Joe Fontana, Michael C. Gongora, Calvin Kohli, Luis Maseda, Milli Membiela, Barbara Montero, Justo Gomez, Morris Sunshine, Maria Elena Negrin, Rocio Sullivan and Stevan M. Zaiman
City Staff: Dolores M. Mejia, Special Projects Administrator; Debora Turner First Assistant City Attorney

Meeting began at 6:00 pm.

Commissioner Garcia thanked Robert Parcher, City Clerk, for coming to the meeting to the meeting to register anyone who needed to register as a lobbyist.

ITEM ONE: **Minutes of the February 7, 2006 Ad Hoc Condo Reform Taskforce**

Frank DelVecchio – passed minutes with the correction to add Justo Gomez and Morris Sunshine to the list of attendees. – Motion passed unanimously.

Commissioner Garcia requested that future agenda have numbered pages.

ITEM TWO: **Florida Statute Chapter 718.616 (checklist) including 20 year recertification**

ITEM THREE: **Existing sections of the City Code licensing and/or occupancy requirements in the City Code for condominiums – City Attorney's Office**

ITEM FOUR: **Submitted/pending legislation at State level of licensure of condo management companies – Kevin Crowder, Economic Development**

Report of pending legislation by Kevin Crowder.
Three have moved beyond being filed (included in the agenda):

(1) HB 0391
(2) HB 543 – amending provisions of "termination of condo" and allocating the proceeds of a sale of a condominium.

(3) SB Margolis – 1270 Advisory Board for condominiums – Review protections in statute for buyers of condo conversions and submit a report to the Legislature in November. Determine if protections are adequate or need to be strengthened, and propose any legislation that needs to be adopted to strengthen the protection for condo conversion, protection for the buyer. Chapter 718.616 is what will be looked at by the Condo Advisory Board. Also, will look at the section dealing with reserve accounts.

Commissioner Bower – Mentioned article in Miami Herald 2/21/06 Rudy Garcia pushing forward something on condos.

Recommendations from Condo Taskforce will go to Commission from there to City's lobbyists.

Recommendations on pending legislative package by Frank DelVecchio.

1-HB 0391 – good bill; Taskforce can be silent on it.
2-HB 0543 may be good.
3-SB 0546 – Most important bill of the three; requires developers to disclose any defects. Taskforce should focus on this narrow section; might be able to piggyback on this narrow section. Possibly can go further, if can enact the licensing of condo association and management firms, require them to disclose any defects as well (code violations, etc), can really make a change.

Mr. DelVecchio requested that Kevin Crowder provide the Taskforce with a status update on amendments to Chapter 468 (licensing of condo association and/or Management Company).

Kevin Crowder – This piece has not been filed yet; could be in bill drafting (come out March 1st). Kevin Crowder ran a statute check; did not carry over from the last session.

Commissioner Bower – does the committee want to support the licensing of condo management firms?

Frank DelVecchio – could use zoning letter as the vehicle for introducing concerns of the City. Representative Robaina is supportive of this. Need to have a strategic legislative package.

What leverage do we have over our existing ordinances? Put all the parts together to have a strategic legislative package.

Milli Membiela – Seller has a responsibility to disclose defects, but many times, owners don't know of code violations (kept quiet by condo board/management company)

Commissioner Bower discussed 20 year recertification issue mentioned in the article about Rudy Garcia.

Kevin Crowder – Options: 1) specific legislative changes can be forwarded and see what support; (2) SB for the council – Two sections of Chapter 718. If there are other parts of the Condo Act that should be looked out, identify and make a request to Senator Margolis to expand scope of study.

Rocio Sullivan – focus on condo conversion seems to signify that it is the beginning /root of the problem. Taskforce should focus on 718.616, #3 (a). Change to require these items be certified & sealed by a licensed architect/engineer.

Justo Gomez - #3(a), change to "...existing improvements may include..." to "shall include."

Frank DelVecchcio – What will the City of Miami Beach be confronted with 40 year re-certification vis-à-vis historic structure? Taskforce should go with the Advisory Council on Condos for greater disclosure and request the licensing of firms.

Condo Board Association – should also be certified, management companies only do what the Boards tell them to do.

Rocio Sullivan – 3 issues affecting condo owners
1 – Start with condo conversion
2 – Management companies only do what condo board members tell them.
3 – Deal with management companies must address from the root of the problem

Commissioner Garcia - #1 – regulated from Tallahassee; have the least control over this. Need to prioritize only doing.

Luis Maseda – 4 part issue
1 – Board of Directors (condo)/Association
2 – Unit owners
3 – Developer
4 – Management companies

→Unit owners not educated. Easily swayed; issue is 4-sided that need to be addressed; moving responsibility to ≠ area. Cost will ↑ to unit owners.

Alex Annunziato – Unit owners uninformed; owners choose board; what faith can be given on decisions.

- Decisions depend on information provided by Administration.
- Flow of information needs to be addresses; need to make sure board members are knowledgeable, etc.

Commissioner Garcia – law provides for a mechanism to remove members when not performing; as far as management firm, they act as the advisors/attorneys – need to know laws, etc. Need to establish responsibility. Can't blame the electorate.

Alex Annunziato – process is fair and process is proper.

Luis Maseda – CAM licensing course.
Commissioner Bower , "Is this required?"
Luis Maseda – "No."

Commissioner Bower ask that board members be required to take CAM course.

Luis Maseda – once a board of directors is elected, 45, 60, 90 days need to take course in order to exercise their responsibility.

Barbara Montero – Board member of Sunset Harbor
20% want to participate
80% don't
→won't get a large number of qualified people.
→don't have time to take a course;* City can come up with program → updates via email, etc. Everyone has a particular interest

Commissioner Bower: Yes, but not Taskforce needs to focus on solutions and not listing all the problems.

Luis Maseda – not a certification can choose to be certified.

Joe Fontana – cannot get involved in corporations.

Michael Gongora – i.e. Commission school for newly elected Commissioners. Adding this requirement will have chilling effect.

Condo board representatives are merely interested condo owners.

Commissioner Garcia – Management Companies → good and bad

Commissioner Bower – Castle Beach example. Need to have check and balances condo management condo certified/liable. Board members – liable.

Calvin Kohli – Good to require condo board/association things, but not bullet proof.
- Need to come up with a DISCLOSURE procedure.
- i.e., monthly newsletter with building progress, violations, etc.
- condos need to disclose the information

Justo Gomez – ultimate responsibility is on the manager because there 24-7, 365, 8 hours a day.
- Management report at meetings.
- Inform, but attendance is low.

Rocio Sullivan – strict sanctions when board members knowingly have wrong doing.

Luis Maseda – Condo board members are volunteers; 200-300 hours/year.

Frank DelVecchio
Motion – Develop disclosure requirement for SB 0543; * 718.616 make an affirmative disclosure
Commissioner Garcia made an amendment to the motion – this should be one of the priorities for the Committee. Number 1 issue should be disclosure.
Morris Sunshine seconded the motion.

Kevin Crowder
Piece 1 – amendments on disclosure requirements
Piece 2 – funding; review of enforcement provisions, consumer protection

Alex Annunciato – If decided this is a priority (review of 718.616). If State will not undertake these changes, etc. Also, direction if it's a failure. What can the City do?

Commissioner Garcia – Depends on legality.

Alex Annunciato – must also have the will of the commission.

Joe Fontana – request for clarification; condo conversions only? What about condos that have been condos for years.

Frank DelVecchio – narrowed to proposed legislation. Only for condo conversions.

Calvin Kohli – 718.616 disclosure #3(A)
- all within the boundaries of the City.
- Enforcing monthly meetings.

Rocio Sullivan – 3 A question;

Debora Turner – can tie licensing; ask that
Frank DelVecchio – accepts no amendments

All in favor; unanimously

Motion by Rocio Sullivan 718.616 #3(A) add language to request that certified by an engineer
.... Existing improvements may include
B applies to A

<u>Motion withdrawn</u>

Debora Turner – expand what is under B. Clarify/strengthen (b).
Developer gives it to the State.

Commissioner Bower – can the City request a copy? Strengthen that before a condominium conversion occurs City receives documents?

Debora Turner – City cannot require it because asking for something greater and stricter than State. Change must be made in the _____

Alex Annunciato – Motion – Recommendation to the commission that modifications made to the chapter

Lobbying efforts – Lobby legislature on behalf of City of Miami Beach to amend Ch 718.616, that disclosure requirement be include disclosure to City.
Seconded by Michael Gongora.

Commissioner Garcia – create an enforcement mechanism.

Alex Annunciato – amendment- provide some measure of funding for municipalities to sustain burden created by disclosure requirements.

Jorge Gomez – agrees with motion.

Stevan Zaiman – like New York architects certifying, then rental tenants have own engineer and says something different.

Frank DelVecchio – motion may not

718.622.2→
1) Disclosure is filed with the municipality and state,

2) Pending legislation is for State Condo Advisory Board, whether current section is adequate.

→Irrespective, go forward
Or
→make a recommendation to Advisory Board

Alex Annunciato – doesn't want to make recommendation

All in favor

Motion by Frank DelVecchio – Lobbying effort approved in last motion (disclose-Ch 718.616) include the following required disclosures:

Added to 3(A) or other section to be determined
1-outstanding municipal code (use, etc). FL Bldg Code. Violations on the premises.
2-date of 40 year recertification requirement
3-accounting of status of the capital replacement and repair reserve fund.
4-current capital contracts in effect
5-any litigation respecting the premises
6-listing of all outstanding municipal or contractor liens.

Discussion
Luis Maseda – required disclosures when? At tiem of conversion? After? In accordance with

Frank DelVecchio – 718.622.1 Whatever the current process is.
Seconded by Morris Sunshine

Frank DelVecchio – invited rest of taskforce to add items that thru experience need/should be disclosed.

Rocio Sullivan – should include the violations in common areas.

Frank DelVecchio – no because only addresses condo conversions

Morris Sunshine – Code violations even if not adjudicated by Special Master. Simply citation issues Code Compliance.

Richard Lorber – disclosure clarify apartment units vs. hotel units, square footage.

Frank DelVecchio – "Is this available at the City?"

Richard Lorber – "Yes."

Frank DelVecchio – addition → any current approed municipal occupational license and use for the premises.

Benita Argos – violations with any other City department.

In favor – 14
Michael Gongora – recused himself because he is a Special Master.

ITEM SIX: **Oral Report by the City Attorney's Office regarding conflicts of interest**

Discussion with Director of Miami Dade County Ethics Commission resolved that Nina Baliga not in conflict.
→Anyone can be on Board as long as they do not lobby the position of another board or body. Can share the position, but cannot advocate for another agency.

All board members as selected can serve.

Joe Fontana – to contact Robert Meyers for more information and clarification.

Public Comment : Benita Argos – City has program on City's website. Permits Plus – put in address and look at all the information.

Juan Rodriguez – Code upgrades; nothing to address this.

Stevan Zalman – 2 types of cases
1 – lack of compliance with newer standard
2- state wide requirement to upgrade

Jorge Gomez – Fire Department can require changes, but usually apartments grandfathered in.

MOTION by Frank DelVecchio – 2 part motion to adjourn
1 – Motion to adjourn
2 – Next agenda
What actions the City can to identify and require respecting condominium conversions and existing condominiums which may require upgrades
- administration to add if anything comes up.

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ACTION THE CITY CAN TAKE, RESPECTING CONDOMINIUM CONVERSIONS AND EXISTING CONDOMINIUMS, TO IDENTIFY AND REQUIRE UPGRADES

ITEM FOUR

PROPOSED SOLUTIONS TO CONDOMINIUM CONVERSION CONCERNS

1. Adopt Stricter Building Code Requirements

Amendments to the City Code could be considered that would apply evenly to all buildings on Miami Beach. The building recertification process for historic buildings is currently going through the Committee process. This proposal would require all buildings older than 40 years to be recertified every 5 years.

2. Expand Content of Municipal "Zoning Letter"

Rudolph Prinz, Bureau Chief for the Standards and Registration Division of the Department of Business and Professional Regulation, has suggested that a zoning "letter," required to be issued by a municipality pursuant to Section 718.616(4), Fla. Stat., can provide other information, in addition to that regarding "compliance with applicable zoning requirements". In such zoning "letter," a municipality can notify the State of any problems or special consideration which should be given to a particular conversion application because the condition of the building may not be fully or accurately reflected in the architect or engineer's report. As explained by Mr. Prinz, a municipality's "zoning letter" may be used, and has been used, as an opportunity to advise the State of concerns which can then be addressed at the State level and which could trigger the State to require "other" information pursuant to Section 718.502(5), Fla. Stat., in the developer's offering statement. Specifically, Section 718.502(5) states that "[i]n addition to those disclosures described by s.s. 718.503 and 718.504, the Division is authorized to require such other disclosure as deemed necessary to fully or fairly disclose all aspects of the offering."

3. Public Education and Notification

The City's communication with Condominium residents can be expanded with regard to City-issued code violations. Efforts could include, community workshops, improved website communications, and visible posting of condominium violations.

4. Urge the Legislature to Strengthen the Condominium Act

A local government can lobby its legislators to make specific changes to Chapter 718. For example, disclosure requirements could be strengthened by the State to address concerns that: a) sufficient information is not currently provided on the report required under Section 718.616; b) the report that is submitted should go through a more thorough analysis or review when received by the State; c) condominium documents should be required to reflect restrictions on unit sizes and uses; require that all purchasers have this disclosed to them in writing and that they execute an acknowledgement to such restrictions; d) disclosure be provided in writing by realtors, registered agents, and/or other professionals involved in marketing and selling hotel/condominium units to prospective purchasers of any and all restrictions and code violations; e) encourage the State to create the statutory provisions to allow conduit financing through counties and municipalities to provide for interest free loans to condominiums to correct significant building, fire, and/or life safety violations at no risk to the participating local

government (similar to Industrial Revenue Bonds); and f) encourage the State to create a grant program to partially offset the costs of building, fire, and life-safety related significant renovations for older structures.

5. Amend the City's Occupational License Code Provisions

Provisions could be considered that would require condominium associations, at license renewal, to provide confirmation that all unit owners have been provided notice of all code violations in the building's common areas.

6. Modify the City's Lien Search and Violation Search Request Forms

These forms could be modified to encourage the requestor to seek information on common areas in a building in addition to a prospective unit. (This has already been implemented).

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DISCUSSION OF GUEST SPEAKER AND WORKSHOP SCHEDULED FOR MARCH 21, 2006.

OPEN DISCUSSION

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CONDO OWNER RIGHTS & RESPONSIBILITIES

Tuesday, March 21, 2006
6:00 p.m. *Ad-Hoc Condo Task Force General Business*
6:30 p.m. *Workshop*

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- Owner responsibilities and rights
- Rules & regulations of a condo board
- How to create a condo association
- Q & A

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DERECHOS y RESPONSABILIDADES

DE LOS DUEÑOS DE CONDOMINIOS

Martes, 21 de marzo, 2006

6:00 p.m. *Reunión General de la Reforma Ad-Hoc para Condominios*
6:30 p.m. *Sesión*

Invitado principal: Dr. Virgil Rizzo, Mediador de Condominio del estado de la Florida

- Derechos y responsabilidades como propietario/dueño de condominio
- Las reglas y las regulaciones de la directiva del condominio
- Como crear una asociación
- Preguntas

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