

4. DISCUSS AMENDING SECTION 2.1.1.1 OF THE MIAMI BEACH RESILIENCY CODE, WHICH REQUIRES THE DISCLOSURE OF CERTAIN SETTLEMENT AGREEMENTS BETWEEN APPLICANTS AND THIRD PARTIES IN CONNECTION WITH LAND DEVELOPMENT APPLICATIONS BEFORE THE LAND USE BOARDS, TO (1) EXPAND APPLICABILITY TO ALSO INCLUDE PRIVATE APPLICATIONS BEFORE THE CITY COMMISSION, AND (2) REQUIRE, AT A MINIMUM, THE DISCLOSURE OF THE MATERIAL TERMS OF ANY SUCH SETTLEMENT AGREEMENT.

Applicable Area:

COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee Members

FROM: Eric Carpenter, City Manager

DATE: April 15, 2025

TITLE: DISCUSS AMENDING SECTION 2.1.1.1 OF THE MIAMI BEACH RESILIENCY CODE, WHICH REQUIRES THE DISCLOSURE OF CERTAIN SETTLEMENT AGREEMENTS BETWEEN APPLICANTS AND THIRD PARTIES IN CONNECTION WITH LAND DEVELOPMENT APPLICATIONS BEFORE THE LAND USE BOARDS, TO (1) EXPAND APPLICABILITY TO ALSO INCLUDE PRIVATE APPLICATIONS BEFORE THE CITY COMMISSION, AND (2) REQUIRE, AT A MINIMUM, THE DISCLOSURE OF THE MATERIAL TERMS OF ANY SUCH SETTLEMENT AGREEMENT.

RECOMMENDATION

The Administration recommends that the Land Use and Sustainability Committee (LUSC) endorse the proposed amendments to the Land Development Regulations of the City Code (LDRs) and recommend that the City Commission refer an ordinance to the Planning Board.

BACKGROUND/HISTORY

On February 26, 2025, at the request of Commissioner David Suarez, the Mayor and City Commission (City Commission) referred a discussion item pertaining to the disclosure of third-party settlement agreements (C4 N) to the LUSC. Commissioner Alex Fernandez is a co-sponsor of the item.

ANALYSIS

As noted in the attached referral memorandum, the item sponsor has requested that the LUSC discuss the following amendments to Section 2.1.1.1 of the LDRs:

1. Expand applicability of the current disclosure requirement to include any settlement agreements between applicants and third parties that are entered into in connection with private applications before the City Commission.
2. Require, at a minimum, the disclosure of the material terms of any such settlement agreement.

Section 2.1.1.1 of the LDR's currently requires that applicants before the city's land use boards (i.e., the Planning Board, Design Review Board, Historic Preservation Board, or Board of Adjustment) provide a written and verbal disclosure of any agreement with a third party to support or withhold objection to the requested approval, relief, or action. This section of the code also requires that the disclosure indicate to whom the consideration has been provided or committed, as well as a general description of the nature of the consideration.

The following is a draft amendment to Section 2.1.1.1, specific to the request of the sponsor:

2.1.1.1 Disclosure requirement

Each person or entity requesting approval, relief or other action from the city commission, planning board, design review board, historic preservation board or the board of adjustment shall disclose, at the commencement (or continuance) of the applicable public meeting or hearing(s), any consideration provided or committed, directly or on its behalf, for an agreement to support or withhold objection to the requested approval, relief or action prior to final approval by the city commission or applicable land use board, excluding from this requirement consideration for legal or design professional services rendered or to be rendered. The disclosure shall:

- a. be in writing,*
- b. indicate to whom the consideration has been provided or committed,*
- c. ~~generally describe the nature of the consideration,~~ fully disclose all material terms of the settlement agreement, or provide a verbatim copy of the executed settlement agreement,*
and
- d. be read into the record by the requesting person or entity prior to submission to the secretary/clerk of the respective board or the city commission.*

Any written disclosure made pursuant to this section must be submitted to the city in writing at least 30 days prior to the date of the applicable meeting or public hearing.

Upon determination by the applicable board or the city commission following a public hearing that the foregoing disclosure requirement was not timely satisfied by the person or entity requesting approval, relief or other action as provided above at least 30 days prior to final approval by the city commission or applicable land use board, ~~the application or order, as applicable,~~ shall no application, proposal, referral or order from said person or entity for the subject property shall be reviewed or considered by the applicable board(s) or the city commission until expiration of a period of one year after ~~the nullification of the application, or order~~ such determination. It shall be unlawful to employ any device, scheme or artifice to circumvent the disclosure requirements of this section and such circumvention shall be deemed a violation of the disclosure requirements of this section.

In consultation with the City Attorney's office, the proposed amendment also includes a revised enforcement standard. The Administration is supportive of the text amendment noted above, as it will provide additional transparency regarding third party settlements and agreements. If there is consensus on the proposed text amendment, a separate referral by the City Commission to the Planning Board would be required.

FISCAL IMPACT STATEMENT

No Fiscal Impact

Does this Ordinance require a Business Impact Estimate? (FOR ORDINANCES ONLY)

The Business Impact Estimate (BIE) was published on .

See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

FINANCIAL INFORMATION

Not Applicable

CONCLUSION

The Administration recommends that the LUSC endorse the proposed amendments to the LDRs and recommend that the City Commission refer an ordinance to the Planning Board.

Applicable Area

Citywide

Is this a “Residents Right to Know” item, pursuant to City Code Section 2-17?

Yes

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

Planning

Sponsor(s)

Commissioner David Suarez

Co-sponsor(s)

Commissioner Alex Fernandez

Condensed Title

Discuss Amending Section 2.1.1.1 Of The Miami Beach Resiliency Code, Which Requires The Disclosure Of Certain Settlement Agreements Between Applicants And Third Parties In Connection With Land Development Applications Before The Land Use Boards, To (1) Expand Applicability To Also Include Private Applications Before The City Commission, And (2) Require, At A Minimum, The Disclosure Of The Material Terms Of Any Such Settlement Agreement.



COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Commissioner David Suarez

DATE: February 26, 2025

TITLE: REFERRAL TO THE LAND USE AND SUSTAINABILITY COMMITTEE – AMEND SECTION 2.1.1.1 OF THE MIAMI BEACH RESILIENCY CODE, WHICH REQUIRES THE DISCLOSURE OF CERTAIN SETTLEMENT AGREEMENTS BETWEEN APPLICANTS AND THIRD PARTIES IN CONNECTION WITH LAND DEVELOPMENT APPLICATIONS BEFORE THE LAND USE BOARDS, TO (1) EXPAND APPLICABILITY TO ALSO INCLUDE PRIVATE APPLICATIONS BEFORE THE CITY COMMISSION, AND (2) REQUIRE, AT A MINIMUM, THE DISCLOSURE OF THE MATERIAL TERMS OF ANY SUCH SETTLEMENT AGREEMENT.

RECOMMENDATION

N/A

BACKGROUND/HISTORY

N/A

ANALYSIS

Please place the above item on the February 26, 2025 City Commission meeting agenda as a referral to the Land Use and Sustainability Committee (“LUSC”).

Under Section 2.1.1.1 of the Miami Beach Resiliency Code (formerly Section 118-31 of the prior Land Development Regulations), applicants before the Planning Board, Design Review Board, Historic Preservation Board, or Board of Adjustment are required to make written and verbal disclosures of any agreement with a third party to support or withhold objection to the requested approval, relief, or action. The Code requires that the disclosure “indicate to whom the consideration has been provided or committed” and “generally describe the nature of the consideration.”

I would like the LUSC to consider the following two amendments to Section 2.1.1.1 of the Resiliency Code:

1. Expand applicability of the above disclosure requirement to include any settlement agreements between applicants and third parties that are entered into in connection with private applications before the City Commission; and
2. Require, at a minimum, the disclosure of the material terms of any such settlement agreement.

Following review and a recommendation by the LUSC, I intend to sponsor a subsequent referral to the Planning Board.

FISCAL IMPACT STATEMENT

N/A

Does this Ordinance require a Business Impact Estimate?
(FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on:
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

FINANCIAL INFORMATION

N/A

CONCLUSION

N/A

Applicable Area

Citywide

**Is this a "Residents Right to Know" item,
pursuant to City Code Section 2-17?**

No

**Is this item related to a G.O. Bond
Project?**

No

**Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481,
includes a principal engaged in lobbying?** No

If so, specify the name of lobbyist(s) and principal(s): N/A

Department

Office of Commissioner David Suarez

Sponsor(s)

Commissioner David Suarez

Co-sponsor(s)

Condensed Title

Ref: LUSC - Amend Settlement Disclosure Requirement. (Suarez)

Previous Action (For City Clerk Use Only)