

R5 AB AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 58 OF THE MIAMI BEACH CITY CODE, ENTITLED "HOUSING," BY CREATING ARTICLE VII, ENTITLED "CONSUMER PROTECTION OF OWNERS OF RESIDENTIAL REAL PROPERTY," BY CREATING SECTION 58-600 THEREOF, TO BE ENTITLED "DEFINITIONS," TO ADOPT CERTAIN DEFINED TERMS; CREATING SECTION 58-602 THEREOF, TO BE ENTITLED "NOTICE TO ASSOCIATIONS," REQUIRING PROSPECTIVE BULK OWNERS OF RESIDENTIAL CONDOMINIUM UNITS TO PROVIDE NOTICE OF THEIR ACQUISITION OF INTERESTS IN CONDOMINIUM PROPERTY; CREATING SECTION 58-610 THEREOF, TO BE ENTITLED "CIVIL PENALTIES," TO PROVIDE FOR PENALTIES AND ENFORCEMENT; AND PROVIDING FOR REFERENCES TO FLORIDA STATUTES, REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

Applicable Area:

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: City Attorney Ricardo J. Dopico

DATE: April 23, 2025 1:45 p.m. First Reading Public Hearing

TITLE: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 58 OF THE MIAMI BEACH CITY CODE, ENTITLED "HOUSING," BY CREATING ARTICLE VII, ENTITLED "CONSUMER PROTECTION OF OWNERS OF RESIDENTIAL REAL PROPERTY," BY CREATING SECTION 58-600 THEREOF, TO BE ENTITLED "DEFINITIONS," TO ADOPT CERTAIN DEFINED TERMS; CREATING SECTION 58-602 THEREOF, TO BE ENTITLED "NOTICE TO ASSOCIATIONS," REQUIRING PROSPECTIVE BULK OWNERS OF RESIDENTIAL CONDOMINIUM UNITS TO PROVIDE NOTICE OF THEIR ACQUISITION OF INTERESTS IN CONDOMINIUM PROPERTY; CREATING SECTION 58-610 THEREOF, TO BE ENTITLED "CIVIL PENALTIES," TO PROVIDE FOR PENALTIES AND ENFORCEMENT; AND PROVIDING FOR REFERENCES TO FLORIDA STATUTES, REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

BACKGROUND/HISTORY

The attached Ordinance is presented on First Reading by the sponsor, Commissioner Alex J. Fernandez, for the consideration of the Mayor and City Commission.

Condominiums are a popular form of residential real property ownership in the City of Miami Beach and are featured among the City's most cherished historic buildings within both local and National Register districts.

Rising property values and recent changes to the Florida Condominium Act, chapter 718, F.S., and other relevant state statutes in the wake of the Champlain Towers South disaster have contributed to increased attempts to terminate older condominiums in the City of Miami Beach.

Section 718.117, F.S., provides the methods by which condominiums may be terminated. Section 718.117(3)(c), F.S., sets forth the procedures, rights, and obligations of parties with respect to an optional termination of condominium initiated by an owner, together with its affiliates, who holds at least 80 percent of the voting interests in the condominium (a "bulk owner").

The City of Miami Beach Office of the Inspector General ("OIG") has identified that condominium residents may not be aware of efforts by developers to acquire controlling interests in condominium property and gain bulk owner status (defined in the attached Ordinance as "prospective bulk owners") until it is too late to meaningfully express their opinions, raise objections, or explore alternative living arrangements. The OIG further found that this lack of transparency can be especially harmful to elderly and middle- and fixed-income condominium owners.

ANALYSIS

The Ordinance requires notice be provided to condominium owners whose condominium is undergoing a buy-out by a prospective bulk owner.^[1] The sponsor's intent is to protect condominium unit owners' interests, promote owners' early inclusion and participation in negotiations, and protect historic properties.

If enacted by the Mayor and City Commission, the proposed Ordinance would require developers that acquire thirty (30) percent or more of the ownership interests in condominium property to mail a notice to each condominium unit owner, the property manager, and the condominium association secretary or equivalent officer. The notice will contain the name, principal address, business phone number, and email of the prospective bulk owner. The notice will also contain the name and physical address(es) of the condominium; the number of units the prospective bulk owner acquired; and all applicable required statements. The Ordinance requires the prospective bulk owner to update and redistribute the notice within five (5) business days of any changes to information contained in the notice. The Ordinance also requires the condominium association and/or property manager to conspicuously publish the notice.

The proposed Ordinance would be enforced by the City's code compliance department with fines per violation of \$500.00 for a first offense; \$1,000.00 for a second offense; \$2,000.00 for a third offense; and \$5,000.00 for a fourth or subsequent offense. Condominium associations and property managers would receive a written warning for the first offense, and thereafter be subject to fines for subsequent violations.

^[1] A requirement that prospective bulk buyers provide notice of their intent to effectuate a condominium buy-out is not in conflict with or expressly preempted by the Florida Condominium Act or the Florida Deceptive and Unfair Trade Practices Act.

FISCAL IMPACT STATEMENT

N/A

Does this Ordinance require a Business Impact Estimate? Yes
(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

CONCLUSION

Applicable Area

Citywide

<u>Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?</u>	<u>Is this item related to a G.O. Bond Project?</u>
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Yes	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

City Attorney

Sponsor(s)

Commissioner Alex Fernandez

Co-sponsor(s)

Condensed Title

1:45 p.m 1st Rdg PH, Notice of Prospective Bulk Condo Purchase. (Fernandez) CA

Previous Action (For City Clerk Use Only)

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 58 OF THE MIAMI BEACH CITY CODE, ENTITLED "HOUSING," BY CREATING ARTICLE VII, ENTITLED "CONSUMER PROTECTION OF OWNERS OF RESIDENTIAL REAL PROPERTY," BY CREATING SECTION 58-600 THEREOF, TO BE ENTITLED "DEFINITIONS," TO ADOPT CERTAIN DEFINED TERMS; CREATING SECTION 58-602 THEREOF, TO BE ENTITLED "NOTICE TO ASSOCIATIONS," REQUIRING PROSPECTIVE BULK OWNERS OF RESIDENTIAL CONDOMINIUM UNITS TO PROVIDE NOTICE OF THEIR ACQUISITION OF INTERESTS IN CONDOMINIUM PROPERTY; CREATING SECTION 58-610 THEREOF, TO BE ENTITLED "CIVIL PENALTIES," TO PROVIDE FOR PENALTIES AND ENFORCEMENT; AND PROVIDING FOR REFERENCES TO FLORIDA STATUTES, REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the condominium form of ownership is popular throughout the City of Miami Beach, including in its historic districts; and

WHEREAS, in response to rising property values and recent changes to the Florida Condominium Act, Ch. 718, Fla. Stat., and other relevant state statutes, attempts to terminate condominiums are on the rise in the City of Miami Beach; and

WHEREAS, the City of Miami Beach Office of the Inspector General (OIG) has identified alleged tactics by prospective developers and their affiliates to conceal their identities and efforts to acquire controlling interests in condominiums; and

WHEREAS, it is in the public interest to ensure transparency in the condominium termination buyout process and to apprise unit owners of negotiations with other unit owners; and

WHEREAS, predatory tactics to initiate condominium terminations threaten the housing security of City of Miami Beach condominium owners and the City's substantial commitment to and investment in its historic properties.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. Chapter 58 of the Code of the City of Miami Beach, Florida, entitled "Housing," is amended as follows and as hereinafter set forth below:

CHAPTER 58

HOUSING

* * *

**ARTICLE VII. CONSUMER PROTECTION OF
OWNERS OF RESIDENTIAL REAL PROPERTY**

Sec. 58-600. Definitions.

(a) "Acquire" or "Acquisition" means gaining any right, benefit, or consideration through any contract, option, or agreement with an owner of real property, regardless of whether a sale, conveyance, or transfer of all or any portion of an ownership interest in real property has been consummated.

(b) "Association" shall have the meaning set forth in s. 718.103, Fla. Stat.

(c) "Bulk owner" shall have the meaning set forth in s. 718.117, Fla. Stat.

(d) "Condominium property" shall have the meaning set forth in s. 718.103, Fla. Stat.

(e) "Property manager" means the person or entity responsible for the supervision, maintenance, and/or operation of condominium property.

(f) "Prospective bulk owner" means a person or entity which has acquired thirty (30) percent or more of the total ownership interests of condominium property, regardless of whether the person or entity is seeking to acquire the rights and interests of a bulk owner; and any successor in interest or assignee of such person or entity.

* * *

Sec. 58-602. Requiring notice to condominium associations by prospective bulk owners.

(a) Within thirty (30) calendar days after a prospective bulk owner acquires thirty (30) percent or more of the ownership interests of condominium property, or succeeds in or receives an assignment of the interests of a prospective bulk owner, the prospective bulk owner shall deliver a notice by mail to the following recipients:

(1) The secretary or equivalent officer of the condominium association.

(2) The property manager.

(3) Each unit owner in the condominium.

(b) The notice shall contain the following information:

(1) The name, principal address, business phone number, and email address of the prospective bulk owner. If the prospective bulk owner is an entity, the notice shall also include the name, principal address, business phone number, and email address of the registered agent. If the prospective bulk owner is an entity formed and existing outside the state of Florida, the notice shall also include the prospective bulk owner's Florida business address or, if applicable, local business address.

(2) The name and street address(es) of the condominium.

(3) The total number of units which the prospective bulk owner has acquired as of the date of the notice.

(4) The following statement:

"The party named in this notice has acquired at least thirty (30) percent of the ownership interests in this condominium."

(5) Additionally, if the prospective bulk owner intends to approve and file a plan of termination of condominium, the notice shall also include the following statement:

"The party named in this notice has begun acquiring ownership interests in this condominium with the intent to approve and file a plan of termination with the Division of Florida Condominiums, Timeshares, and Mobile Homes."

(c) The prospective bulk owner shall deliver an updated version of the notice to all recipients required under this section within five (5) business days following a change to any information contained in the notice.

(d) Any notice required under this section shall be plainly visible and written in a font size of no less than 14 points, and all information thereupon shall be clear and legible.

(e) Upon receipt of a notice, the association or property manager shall conspicuously publish, post, or distribute the notice in a common area or otherwise in the manner by which notices are customarily provided to the members of the association.

(f) *Effective date.* The provisions of this section shall apply to any prospective bulk owner that acquires thirty (30) percent or more of the ownership interests of condominium property on or after July 1, 2025.

Sec. 58-610. Civil penalties.

(a) The code compliance department shall enforce this section; however, this shall not preclude other law enforcement agencies from taking any action to assure compliance with this division and all applicable laws.

(1) If a violation is observed, the enforcement officer shall be authorized to issue a notice of violation to the individual or entity. The notice will inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, that the violation may be appealed by requesting an administrative hearing before a special magistrate within ten days after service of the notice of violation, and that the failure to appeal the violation within ten days of service shall constitute an admission of the violation and a waiver of the right to a hearing.

(2) A violation of this section shall be subject to the following fines:

a. *Penalties.*

- i. If the violation is the first offense, a person or business shall receive a civil fine of \$500.00;
- ii. If the violation is the second violation within the preceding six months, a person or business shall receive a civil fine of \$1,000.00;
- iii. If the violation is the third violation within the preceding six months, a person or business shall receive a civil fine of \$2,000.00; and
- iv. If the violation is the fourth or subsequent violation within the preceding six months, a person or business shall receive a civil fine of \$5,000.00.
- v. For a failure by a condominium association or property manager to publish, post, or distribute a notice as required under this section, a first offense shall be subject to a written warning. A second or subsequent offense by a condominium association or property manager shall be subject to the penalties set forth in (i) through (iv).

- b. Each condominium association, property manager, and unit owner who does not receive a written notice required under this section shall be considered a separate and distinct offense subject to applicable penalties.
- (3) A violator who has been served with a notice of violation must elect to either:
 - a. Pay the civil fine in the manner indicated on the notice of violation; or
 - b. Request an administrative hearing before a special magistrate to appeal the notice of violation, which must be requested within ten days of the service of the notice of violation.
- (4) The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73 of this Code. A request for the administrative hearing must be accompanied by a fee as approved by a resolution of the city commission, which shall be refunded if the named violator prevails in the appeal.
- (5) If the named violator, after issuance of the notice of violation, fails to pay the civil fine, or fails to timely request an administrative hearing before a special magistrate, the special magistrate may be informed of such failure by the code enforcement officer. The failure of the named violator to appeal the decision of the code enforcement officer within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing before the special magistrate, and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly.
- (6) A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. On or after the 61st day following the recording of any such lien that remains unpaid, the city may foreclose or otherwise execute upon the lien.
- (7) Any party aggrieved by a decision of a special magistrate may appeal that decision to a court of competent jurisdiction.
- (8) The special magistrate shall be prohibited from hearing the merits of the notice of violation or considering the timeliness of a request for an administrative hearing if the violator has failed to request an administrative hearing within ten days of the service of the notice of violation.
- (9) The special magistrate shall not have discretion to alter the penalties prescribed in this subsection.

SECTION 2. REFERENCES TO FLORIDA STATUTES.

All references to any section, chapter, or provision of the Florida Statutes in this Ordinance are made as that section, chapter, or provision may be amended from time to time.

SECTION 3. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Miami Beach City Code. The sections of this ordinance may be renumbered or relettered to accomplish

such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 4. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 5. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect on the ___ day of _____, ____.

PASSED and **ADOPTED** this _____ day of _____, ____.

ATTEST:

Steven Meiner, Mayor

Rafael E. Granado, City Clerk

(Sponsored by Commissioner Alex J. Fernandez)

Underlined denotes new additions

~~Strikethrough~~ denotes deletions

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION



City Attorney NK

4/15/2025

Date