

R5 AC 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 58-601 THEREOF, TO BE ENTITLED "PROHIBITED CONTACTS FOR SOLICITATIONS," TO ADOPT REGULATIONS PROHIBITING CERTAIN PREDATORY SOLICITATIONS TO RESIDENTIAL CONDOMINIUM UNIT OWNERS; 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 1:50 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 58-601 THEREOF, TO BE ENTITLED "PROHIBITED CONTACTS FOR SOLICITATIONS," TO ADOPT REGULATIONS PROHIBITING CERTAIN PREDATORY SOLICITATIONS TO RESIDENTIAL CONDOMINIUM UNIT OWNERS; 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.

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.

The City of Miami Beach Office of the Inspector General ("OIG") has identified instances where condominium unit owners experienced unwanted and threatening solicitations to sell their units to buyers for the purpose of terminating the condominium.

### **ANALYSIS**

The Ordinance prohibits certain contacts by a developer to condominium unit owners that solicit them to sell, convey, or transfer their ownership interests to the developer, or to modify existing agreements to sell, convey, or transfer ownership interests to the developer.<sup>[1]</sup>

The sponsor's intent is to protect unit owners from experiencing unfair pressure to sell their units and to encourage developers to engage in more transparent negotiations and business practices.

If enacted by the Mayor and City Commission, the proposed Ordinance would prohibit any person or entity from contacting condominium unit owners to solicit the sale of their units in furtherance of a condominium termination if the unit owner has rejected a solicitation, requested not to be contacted, or if the solicitation contains a threat (as defined in the attached Ordinance).

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.

<sup>[1]</sup> A prohibition on predatory tactics in condominium buy-out solicitations 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?** No  
(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-notices/>

### **FINANCIAL INFORMATION**

### **CONCLUSION**

#### **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**

City Attorney

#### **Sponsor(s)**

Commissioner Alex Fernandez

**Co-sponsor(s)**

**Condensed Title**

1:50 p.m. 1st Rdg PH, Prohibit Predatory Solicitations to Residential Condo Owners.  
(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 58-601 THEREOF, TO BE ENTITLED "PROHIBITED CONTACTS FOR SOLICITATIONS," TO ADOPT REGULATIONS PROHIBITING CERTAIN PREDATORY SOLICITATIONS TO RESIDENTIAL CONDOMINIUM UNIT OWNERS; 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, Chapter 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 contact condominium owners to pressure them to sell;

**WHEREAS**, the OIG recommended the adoption of an ordinance to prohibit predatory tactics employed by some developers seeking to buy out and terminate residential condominiums, which include unwanted and repeated or threatening contacts for solicitations; 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) "Contact" means to initiate any written or verbal communication via any physical or electronic medium, including but not limited to telephone calls, electronic mail, letters or leaflets, and in-person visits.

(b) "Developer" means the person or entity, and any affiliates, agents, employees, and attorneys of the person or entity, initiating or attempting to initiate contact with a unit owner.

(c) "Solicit" or "Solicitation" means to request, encourage, persuade, or convince a unit owner:

- (1) to enter into a contract, option, or agreement to sell, convey, or transfer all or any portion of their ownership interest to the developer; or
- (2) to modify the terms of a contract, option, or agreement, if a unit owner has previously entered into a contract, option, or agreement to sell, convey, or transfer all or any portion of their ownership interest to the developer.

(d) "Threat" or "Threaten" means any statement that:

- (1) explicitly or implicitly threatens a forced sale of the property of any property owner;
- (2) cajoles, pressures, forces, harasses, or otherwise coerces a property owner to enter into a contract, option, or agreement to sell, convey, or transfer property to the developer; or
- (3) cajoles, pressures, forces, harasses, or otherwise coerces a property owner to modify the terms of an existing contract, option, or agreement to sell, convey, or transfer property to the developer.

(e) "Unit owner" or "Owner of a unit" shall have the meaning set forth in s. 718.103, Fla. Stat.

**Sec. 58-601. Prohibited contacts for solicitations.**

(a) No developer shall contact a unit owner to solicit them in furtherance of a proposed plan of termination of condominium:

- (1) if the solicitation contains any threat; or
- (2) three (3) or more times within any 180-day period, if the unit owner has previously rejected a solicitation or affirmatively requested in writing to the developer not to be contacted.

(b) This section shall not prohibit:

- (1) a solicitation not encompassed by part (a) of this section;
- (2) a contact by or on behalf of the following parties:
  - a. A condominium or community association.
  - b. The board of directors of the condominium association, or a member of the board of directors acting in his or her official capacity.
  - c. The property manager or any designee, agent, or attorney of the condominium association otherwise authorized to make a contact.
  - d. Any person or entity from whom contact is otherwise required to be made by the Florida Condominium Act, Chapter 718, Fla. Stat., or another applicable rule or statute.

- (3) advertisements for realty services; or
- (4) the delivery or distribution of presentations or leaflets by a developer at a duly noticed meeting of the association upon the invitation or approval of the board of directors.

**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.
  - b. Each contact made in violation of this section, whether to the same or a different unit owner within the same condominium, 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 \_\_\_\_\_, 2025.

**PASSED** and **ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2025.

**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

4/15/2025  
\_\_\_\_\_  
Date