

10. 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:

MIAMI BEACH

COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee Members

FROM: Eric Carpenter, City Manager

DATE: June 10, 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 Mayor and City Commission (City Commission) refer an ordinance to the Planning Board.

BACKGROUND/HISTORY

On February 26, 2025, at the request of Commissioner David Suarez, the 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.

On April 15, 2025, the LUSC discussed and continued the item to the June 10, 2025 LUSC meeting with direction to staff to further develop the proposed draft amendments to the disclosure requirements in consultation with the item sponsor.

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 LDRs 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 revised draft amendment to Section 2.1.1.1, which has been updated at the request of the sponsor:

2.1.1.1 Disclosure requirement

Each person or entity requesting approval, relief or other action pursuant to these land development regulations 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 by a third party 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 requirements shall apply to any agreement related to the application, including, but not limited to, written, oral, formal or informal agreements that involve the following:

- a. any type of benefit, including monetary or any other consideration;
- b. an agreement to support or not oppose an application including settlement agreements and/or any other agreements with third parties including, but not limited to, other residents of Miami Beach, neighboring property owners or tenants, neighborhood associations, community groups, or advocacy organizations.

The disclosure shall:

1. be in writing and a verbatim copy of all relevant agreements shall be attached;
2. indicate to whom the consideration has been provided or committed,
3. 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
4. be read into the record by the requesting person or entity prior in addition 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.

Private agreements for professional services (e.g., legal, architectural, engineering, landscape design) including any non-disclosure provisions associated therewith shall be exempt from the full disclosure requirements above. However, the applicant shall be required to submit, as part of the application or as a supplement to the application, an index listing any such agreements. The index shall include the name of each counterparty, the date of execution, and a general description of the purpose of the agreement.

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 requested by 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.

If it is determined that the foregoing disclosure requirements were not timely satisfied by the person or entity requesting approval, relief or other action as provided above, the one-year waiting period shall be applicable to all of the following:

- a. the applicant;
- b. any entity in which the applicant has a direct or indirect interest;
- c. any owner, officer, or principal of the applicant; and
- d. any entity in which such an individual holds a direct or indirect ownership interest.

By appearing before a land use board or the City Commission, an individual or entity shall be subject to the provisions of this section. 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.

The item sponsor has also requested inclusion of the following penalty provision, which would apply specifically to lobbyists. If this amendment moves forward, the City Attorney's Office recommends that this provision be incorporated as an amendment to the lobbying regulations in the City's Code of Ethics, which is set forth in Chapter 2, Article VII of the City Code. The City's Code of Ethics is enforced by the Miami-Dade County Commission on Ethics and Public Trust, which has jurisdiction to enforce ethics requirements applicable to lobbyists.

Any lobbyist (including the principal of the lobbyist) appearing on behalf of an applicant, who appears before any City land use board or the City Commission on a request for relief under the land development regulations, shall be required to comply with the following requirements:

- a. the lobbyist shall certify that the applicant has complied with all applicable disclosure requirements in section 2.1.1.1 of the land development regulations;
- b. if the lobbyist violates section 2.1.1.1 of the land development regulations, or has or should have had actual knowledge of a violation of section 2.1.1.1 of the land development regulations, the lobbyist shall be prohibited from representing any applicant on a request for relief under the land development regulations before the City Commission or the City's land use boards for a period of one (1) year.

As it pertains to applicability, it is recommended that the proposed amendment take effect upon "zoning in progress," i.e., upon a favorable recommendation by the Planning Board.

The Administration is supportive of the text amendments noted above, as they will provide additional transparency regarding third party settlements and agreements. If there is consensus on the proposed text amendments, 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-notices/>

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)