

R5 AN 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 AMENDING ARTICLE I, ENTITLED "IN GENERAL," BY CREATING SECTION 58-2, THEREOF, TO BE ENTITLED "FAIR APPROVAL PROCESS" REQUIRING CONDOMINIUM ASSOCIATIONS TO APPROVE OR DISAPPROVE AN APPLICATION FROM A POTENTIAL RESIDENT WITHIN FIFTEEN (15) BUSINESS DAYS; AND PROVIDING FOR 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: November 20, 2024 First Reading

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 AMENDING ARTICLE I, ENTITLED "IN GENERAL," BY CREATING SECTION 58-2, THEREOF, TO BE ENTITLED "FAIR APPROVAL PROCESS" REQUIRING CONDOMINIUM ASSOCIATIONS TO APPROVE OR DISAPPROVE AN APPLICATION FROM A POTENTIAL RESIDENT WITHIN FIFTEEN (15) BUSINESS DAYS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

RECOMMENDATION

BACKGROUND/HISTORY

ANALYSIS

The attached ordinance is presented on first reading by the sponsor, Vice Mayor Alex J. Fernandez, for the consideration of the Mayor and City Commission.

Condominium associations often require an application, an application fee, and an interview before approving a potential resident to live in the condominium.

The sponsor believes that unreasonably long delays between application and acceptance or denial of the potential resident have the potential to disrupt an already fragile and difficult housing market for potential residents.

If enacted by the Mayor and City Commission, the proposed ordinance would impose a fifteen (15) business day limit between application and denial or acceptance of a potential condominium resident in order to ensure reasonable access to housing within the City of Miami Beach.

The proposed ordinance would be enforced by the City's code compliance department with fines of \$1,000 per day for a first violation and for a second and/or subsequent violation, \$5,000 per day per violation.

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?**

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):

Department

City Attorney

Sponsor(s)

Commissioner Alex Fernandez

Co-sponsor(s)

Condensed Title

1st Rdg, Fair Approval Process for Condo Approvals. (Fernandez) CA

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 AMENDING ARTICLE I, ENTITLED "IN GENERAL," BY CREATING SECTION 58-2, THEREOF, TO BE ENTITLED "FAIR APPROVAL PROCESS" REQUIRING CONDOMINIUM ASSOCIATIONS TO APPROVE OR DISAPPROVE AN APPLICATION FROM A POTENTIAL RESIDENT WITHIN FIFTEEN (15) BUSINESS DAYS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, condominium associations often require an application, an application fee, and an interview before approving a potential resident to live in the condominium; and

WHEREAS, unreasonably long delays between application and acceptance or denial of the potential resident have the potential to disrupt an already fragile and difficult housing market for potential residents; and

WHEREAS, the Mayor and City Commission have determined that a fifteen (15) business day period limit between application and denial or acceptance of a potential condominium resident is reasonable and necessary to ensure reasonable access to housing within the City of Miami Beach.

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 I. IN GENERAL

* * *

Sec. 58-2. Requiring condominium associations to approve or disapprove an application from a potential condominium resident within fifteen (15) business days.

(a) Any condominium association that requires an application, an application fee, and/or an interview before approving a potential condominium resident to move onto the property must complete the entire process, and approve or deny the applicant for residency in the condominium, within fifteen (15) business days from the date a complete application and or application fee is submitted. Additionally, the condominium association must provide notice of the approved or denied application to the potential resident and/or their agent promptly upon making the determination, but in no event later than the close-of-business on the fifteenth business day that the application is pending.

(b) A condominium association that does not approve or deny a complete application, with any application paid-in-full, for a potential resident within fifteen (15) business days shall refund any application fee collected upon request of the applicant within forty-eight (48) hours of the request and proceed to process the application, conduct any required interview, and approve or deny the application as soon as is practicable.

(c) The requirements of this section shall be limited as follows:

(1) The time limitation set forth herein shall not apply to any potential resident who does not possess a valid United States Social Security Number;

(2) The time limitation set forth herein shall not apply if the declaration of condominium sets forth a different time limitation; and

(3) The time limitation set forth herein shall not apply if the potential resident agrees in writing to waive it.

(c) Any condominium association that violates this section, shall, after a ninety day education period during which the city administration shall provide notice of the requirements of this ordinance to all condominium associations in the city, be issued a Notice of Violation by the city's code compliance department and must elect to either:

a. Pay the following civil fine:

i. First violation: \$1,000 per day per violation;

ii. Second and/or subsequent violation: \$5,000 per day per violation; and

iii. \$15,000 per violation if the special magistrate finds the violation to be irreparable or irreversible in nature.

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. 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. Applications for hearings 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.

(2) Failure to pay the civil fine, or to timely request an administrative hearing before a special magistrate, 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.

(3) 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. After three months following the recording of any such lien that remains unpaid, the city may foreclose or otherwise execute upon the lien for the amount of the lien plus accrued interest.

- (4) 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. The special magistrate shall not have discretion to alter the penalties prescribed in this article. Any party aggrieved by a decision of a special magistrate may appeal that decision to a court of competent jurisdiction.

* * *

SECTION 2. 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 3. REPEALER.

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

SECTION 4. SEVERABILITY.

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

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect on the 1st day of January, 2025..

PASSED and **ADOPTED** this _____ day of _____, 2024.

ATTEST:

Steven Meiner, Mayor

Rafael E. Granado, City Clerk

(Sponsored by Vice Mayor Alex J. Fernandez)

Underlined denotes new additions

~~Strikethrough~~ denotes deletions

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

 11/12/2024

Date