

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 17A ENTITLED "RENTAL HOUSING" BY ADDING ARTICLE III THEREOF ENTITLED "TERMINATION OF TENANCY WITHOUT SPECIFIC TERM" BY PROVIDING THAT RESIDENTIAL TENANCIES WITHOUT A SPECIFIC DURATION IN WHICH THE RENT IS PAYABLE ON A MONTHLY BASIS MAY BE TERMINATED BY EITHER PARTY GIVING NOT LESS THAN THIRTY (30) DAYS' WRITTEN NOTICE PRIOR TO THE END OF ANY MONTHLY PERIOD, AND EXCEPT FOR THE NOTICE PROVISIONS SET FORTH HEREIN, PROVIDING FOR THE APPLICABILITY OF PART II, CHAPTER 83, FLORIDA STATUTES, GOVERNING "RESIDENTIAL TENANCIES" TO THE RENTAL OF RESIDENTIAL DWELLING UNITS IN MIAMI BEACH; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that Miami Beach City Code Chapter 17A entitled "Rental Housing" is hereby amended by the addition of Article III thereof entitled "Termination of Tenancy without Specific Term", to read as follows:

SECTION 1.

Miami Beach City Code Chapter 17A entitled "Rental Housing" is hereby amended to read as follows:

* * *

Article III. "Termination of Tenancy without Specific Term".

Section 17A-12. Written Notice of Termination of Tenancy.

A residential tenancy without a specific duration in which the rent is payable on a monthly basis may be terminated by either the landlord or tenant by giving not less than thirty (30) days' written notice prior to the end of any monthly period.

Section 17A-13. Applicability of Chapter 83, Florida Statutes.

Except for the notice provisions set forth in Section 17A-12 hereinabove, all other provisions set forth within Part II, Chapter 83, Florida Statutes, governing "Residential Tenancies" shall apply to the rental of a residential dwelling unit within the City of Miami Beach.

SECTION 2. REPEALER

All Ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 3. SEVERABILITY

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 4. EFFECTIVE DATE

This ordinance shall take effect ten (10) days after its adoption, on August 7, _____, 1994.

PASSED and ADOPTED this 28th day of July, 1994.

Paul J. Lehman
VICE - MAYOR

ATTEST:

Richard E. Brown
CITY CLERK
1st reading 7/13/94
2nd reading 7/28/94
JO/ks
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FORM APPROVED
LEGAL DEPT.
By *Aurèle D'Angelo*
Date *7/27/94*

OFFICE OF THE CITY ATTORNEY

City of Miami Beach

F L O R I D A



LAURENCE FEINGOLD
CITY ATTORNEY

P.O. BOX 0
MIAMI BEACH, FLORIDA 33119-2032
TELEPHONE (305) 673-7470
TELECOPY (305) 673-7002

COMMISSION MEMORANDUM NO. 391-94

DATE: MAY 18, 1994

TO: MAYOR SEYMOUR GELBER,
MEMBERS OF THE CITY COMMISSION AND
CITY MANAGER ROGER M. CARLTON

FROM: LAURENCE FEINGOLD *Laurence Feingold*
CITY ATTORNEY

RE: EXTENSION OF NOTICE PROVISIONS FOR TERMINATION OF
RESIDENTIAL TENANCIES WITHOUT A SPECIFIC DURATION

As the attached opinion of the Office of the Attorney General, dated May 5, 1994, indicates, the City has the power to extend notice provisions of the termination of residential tenancies without specific duration.

It should be noted that the opinions of the Attorney General do not have the same force and effect as actual case law. Nevertheless, the opinions of the Attorney General are quite persuasive, particularly when there is no case law.

The City Attorney desires instructions on how to proceed in view of the attached opinion of the Attorney General.

LF:lm

RSE

BACKGROUND:

The economic change that has taken place in South Beach is well known and similar changes will occur in other areas of Miami Beach as its renaissance continues. There are numerous stores, shops and restaurants which are enjoying a great deal of success. The residential areas are also benefiting as a result of the popularity of Miami Beach as a positive quality of life community. Apartment buildings which were run-down and poorly maintained for years are being renovated with modern amenities. Although some units are being converted to condominiums, the remainder are still offered for rent.

One consequence of the revitalization of any neighborhood is that rents often increase commensurate with the physical improvements to the buildings and the increased cost of services. For many people residing in South Beach and other neighborhoods, the combination of neighborhood revitalization, the increased popularity of South Beach, condominium conversions, and the housing shortage resulting from Hurricane Andrew have interacted to increase rents.

As was discussed at the May 18, 1994 City Commission meeting, there is a need to address the issue of the required notice provided to tenants regarding termination of tenancies or displacement by their landlords for cause. The current State statute requires 15 days notice for persons on a month-to-month rental, and 7 days notice for persons renting on a week-to-week basis.

The City Attorney, on May 18th in conveying Commission Memorandum No. 391-94 (copy attached), advised that the Attorney General had opined on May 5, 1994, the City has the power to extend notice provisions of the termination of residential tenancies without specific duration. In response to the City Attorney's request for direction from the City Commission, it was determined that this issue would be examined, and a draft ordinance or ordinances would be brought to the City Commission in 30 days.

Commissioner Nancy Liebman convened a group of representatives from various organizations including the Miami Beach Housing Authority (MBHA), Miami Beach Development Corporation (MBDC), Legal Services of Greater Miami, the RAINMothers, Miami Beach Senior Center, and other interested parties, together with the City Administration and the City Attorney, for the purpose of examining the need to extend the notice on month-to-month rentals.

Several meetings were held under the leadership of Commissioner Liebman, before this group determined that it wanted to address a broad range of affordable housing issues above and beyond the specific issue of the notice provisions related to month-to-month rentals. The group decided to form their own "Affordable Housing Coalition" under the direction of Denis Russ, who became the Coalition Chairperson. This recommendation does not address those issues which will be brought directly to the City Commission by the Coalition.

It is important to address the issue of month-to-month rentals in the context of the overall affordable housing initiatives already undertaken and proposed. The City of Miami Beach has effectively provided decent and affordable housing for our low and moderate income residents by utilizing federal programs to leverage other resources, and to encourage private investment. These programs include: the Multi-family Rental Rehabilitation Program, Emergency Shelter Grant Program (ESGP), Community Development Block Grant (CDBG), and the HOME Investment Partnerships Program.

Over the past decade, City sponsored programs have resulted in the renovation of approximately 1,000 rental units, increasing the available stock of standard housing that was previously vacant, boarded-up, and sub-standard. Thus, not only were these units returned to the housing stock, but the City's tax base was expanded. Following substantial rehabilitation, the majority of these apartments were required to be made available at affordable rents for a prescribed period of time.

The City works closely with the Miami Beach Housing Authority (MBHA), which owns and/or manages several buildings which are affordable to low income elderly individuals and families, and administers over 2,400 "Section 8" Rental Certificates and Vouchers which subsidize the rent for low income families. In March 1994, the City funded \$200,000 in an Inter-Local Agreement for assistance to persons displaced from rental units due to actions of the City including Code Enforcement. In addition, the MBHA through its Rent Supplement Program (RSP), provides emergency housing benefits to persons displaced or in imminent threat of becoming homeless. Further, in April 1994 the City provided \$74,000 to the MBHA for the provision of services to adult homeless males who require treatment for alcohol and/or drug abuse.

The City through the CDBG program, provides direct financial assistance to the Miami Beach Development Corporation (MBDC), a not-for-profit entity, for both the agency's overall administrative expenses as well as funds for capital improvements; thus enabling this agency to provide affordable housing. Currently MBDC receives CDBG funds for several programs including: \$267,136 for commercial revitalization, \$100,000 for a homeownership program which utilizes funding from the Dade County Surtax program for 2nd mortgages, \$25,000 for housing for persons with special needs; and \$45,000 for the RAINMothers Financial Assistance Program which provides emergency housing and related assistance.

Within the last year, the City through its HOME Investment Partnerships Program funds, awarded \$ 2,248,350 as follows: \$1.25 Million to Affordable Landmarks, Inc. for the construction of 96 condominium units, of which, 25 to 30 will be available to low and moderate income families; \$458,350 to MBDC for rehabilitating and reconfiguring an existing building to provide affordable rental units for families; \$250,000 to MBDC to provide first-time homebuyer assistance to 20 or more families, and an additional \$90,000 for their operating expenses for providing affordable rental housing. Also, the City under the terms of a Joint Venture agreement with the Miami Beach Housing Authority, has set-aside \$380,000 of its HOME funds to be matched by the Housing Authority and used to provide affordable housing. The City supports the Housing Authority's efforts in developing a Women and Children's Housing and Resource Center.

The Administration has worked closely with attorneys from Legal Services of Greater Miami, Inc. since they began representing clients in Miami Beach, providing both technical assistance and essential information to assist their clients.

The City of Miami Beach is a strong supporter of the Fair Housing Act and associated laws, and was the first community in Florida to adopt a Human Rights Ordinance which includes the prohibition of housing discrimination. The City requires that all owners or landlords participating in the above referenced City sponsored housing programs sign and enforce Affirmative Marketing Agreements. Further, the City has undertaken various educational activities in order to ensure equal opportunity and fair housing for all persons.

ANALYSIS:

The "Affordable Housing Coalition" met on July 5, 1994 to review the City's proposal to extend the notice period. After substantial debate, the Coalition requested that the City's proposed Ordinance extending the required notice to 30 days, be further amended to require 120 days notice for all rentals of month-to-month or less, and the requirement that tenants receive notice of 120 days for either eviction or termination of lease or rent increases, and allowing for an exception clause for owners/landlords who agree to house displaced tenants who are referred, relocated, or assisted by a governmental agency or a non-profit agency. The second Ordinance in your agenda was drafted by Gale Lucy of Legal Services of Greater Miami, Inc. This Ordinance was the basis of the initial discussion held by the Coalition, and the basis for the above Coalition position that the recommended extension to thirty (30) days was inadequate. It should be noted that where the attached Ordinance states 180 days notice regarding month-to-month rentals, the Coalition supported at the July 5th meeting a 120 day notice period.

While the Administration supports legislation that will extend the notice provision, there are several concerns regarding the legality of the Ordinance proposed by the Coalition. First is the concern about whether the 120 day notice constitutes an impairment of contract (i.e. the 120 day notice would preclude any tenancy for less than 120 days); second, the provision in the proposed Ordinance which mandates notice prior to a rent increase may be considered a "rent control" measure which would require a referendum; third, the provision in the proposed Ordinance which exempts certain landlords from the mandatory notice may be challenged as giving those landlords unequal treatment.

The Ordinance prepared by the City Attorney's Office solely extends the required notice period from 15 to 30 days, for month-to-month tenancies. The City Attorney feels confident this Ordinance will withstand legal challenge since the State Attorney has opined that the City can adopt legislation to extend the notice period to 30 days and there is other legal authority to support the extension. It is important to note that this Ordinance is put forth at this time in response to the immediate need cited, (and which will be evidenced into the public record on July 13th), and this Ordinance should be viewed as an important measure in addressing the overall shortage of affordable rental housing. We feel that the issues recommended by the Coalition need to be more closely examined prior to drafting Legislation.

CONCLUSION:

The City Manager and the City Attorney recommend that the Mayor and City Commission adopt the attached Ordinance amending City Code Chapter 17-A entitled "Termination of Tenancies Without Specific Term", to provide that a residential tenancy without written lease with rent being paid on a month-to-month basis, shall be afforded thirty (30) days notice prior to termination of the tenancy.

The Administration further recommends that the City hold a workshop for the purpose of allowing public comment from Miami Beach property owners/landlords and tenants to allow for the free exchange of views regarding appropriate notice extensions, prior to enactment of additional legislation requiring a longer period of

notice prior to termination of tenancies without written leases paying rent on a month-to-month basis, and other remedial legislation enhancing tenant protection.

Furthermore, the Administration requests that the City Commission direct the City Attorney to seek an opinion of the State Attorney General on the specific number of days in excess of thirty (30) days for notification of termination of the tenancy (e.g. 60 days or 120 days such as proposed by the "Affordable Housing Coalition", and seeking direction from the State Attorney General on the method of implementation of such extended notice).

RMC/STP

Attachments

\FILES\MTH-TO.MTH RENTAL

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH FLORIDA 33139



OFFICE OF THE CITY MANAGER

TELEPHONE: (305) 673-7010
FAX: (305) 673-7782

COMMISSION MEMORANDUM NO. 501-94

TO: Mayor Seymour Gelber and
Members of the City Commission

DATE: July 28, 1994

FROM: Roger M. Carlton
City Manager

Laurence Feingold
City Attorney

SUBJECT: RECOMMENDATION TO ADOPT THE ATTACHED ORDINANCE AMENDING CITY CODE CHAPTER 17-A, ENTITLED "TERMINATION OF TENANCIES WITHOUT SPECIFIC TERM" TO PROVIDE THAT A RESIDENTIAL TENANCY WITH MONTHLY RENTAL ON A MONTH-TO-MONTH BASIS, WITHOUT A WRITTEN LEASE, SHALL BE AFFORDED THIRTY (30) DAYS NOTICE PRIOR TO TERMINATION OF THE TENANCY; AND DIRECTING THE ADMINISTRATION TO HOLD A WORKSHOP FOR THE PURPOSE OF ALLOWING PUBLIC COMMENT PRIOR TO ENACTMENT OF ADDITIONAL LEGISLATION REQUIRING A LONGER PERIOD OF NOTICE PRIOR TO TERMINATION OF TENANCIES WITHOUT WRITTEN LEASES PAYING RENT ON A MONTH-TO-MONTH BASIS; AND DIRECTING THE CITY ATTORNEY TO SEEK AN OPINION OF THE STATE ATTORNEY GENERAL ON THE MAXIMUM LAWFUL NUMBER OF DAYS FOR NOTIFICATION IN EXCESS OF THIRTY (30) AND SEEKING DIRECTION ON THE METHOD OF IMPLEMENTATION FOR SAME.

ADMINISTRATION RECOMMENDATION:

In order to develop a proactive and humane position in dealing with the notice period required for termination of tenancies and displacement of tenants, the City Manager and the City Attorney are recommending that the Mayor and City Commission take three (3) actions at this meeting, as follows:

- 1) To adopt the attached Ordinance amending City Code Chapter 17-A entitled "Termination of Tenancies Without Specific Term", to provide that a residential tenancy on a month-to-month basis, without a written lease, shall be afforded thirty (30) days notice prior to termination of the tenancy; and,
- 2) to direct the Administration to call a workshop meeting in September to elicit public comment from Miami Beach property owners/landlords and tenants to allow for the exchange of views regarding the need for additional notice extension, prior to consideration of additional legislation requiring a longer period of notice prior to termination of tenancies without written leases paying rent on a month-to-month basis, and other remedial legislation enhancing tenant protection; and,
- 3) to direct the City Attorney to seek an opinion of the State Attorney General regarding the specific number of days in excess of thirty (30) for notification of termination of the tenancy (e.g. from 60 days to 120 days, as proposed by the "Affordable Housing Coalition", and seeking direction from the State Attorney General on the method of implementing such extended notice).

AGENDA
ITEM

R-3-E

DATE

7-28-94

37

BACKGROUND:

The economic change that has taken place in South Beach is well known and similar changes will occur in other areas of Miami Beach as its renaissance continues. There are numerous stores, shops and restaurants which are enjoying a great deal of success. The residential areas are also benefiting as a result of the popularity of Miami Beach as a positive quality of life community. Apartment buildings which were run-down and poorly maintained for years are being renovated with modern amenities. Although some units are being converted to condominiums, the remainder are still offered for rent.

One consequence of the revitalization of any neighborhood is that rents often increase commensurate with the physical improvements to the buildings and the increased cost of services. For many people residing in South Beach and other neighborhoods, the combination of neighborhood revitalization, the increased popularity of South Beach, condominium conversions, and the housing shortage resulting from Hurricane Andrew have interacted to increase rents.

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CONCLUSION:

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notice prior to termination of tenancies without written leases paying rent on a month-to-month basis, and other remedial legislation enhancing tenant protection.

Furthermore, the Administration requests that the City Commission direct the City Attorney to seek an opinion of the State Attorney General on the specific number of days in excess of thirty (30) days for notification of termination of the tenancy (e.g. 60 days or 120 days such as proposed by the "Affordable Housing Coalition", and seeking direction from the State Attorney General on the method of implementation of such extended notice).

RMC/STP

Attachments

\FILES\MTH-TO.MTH RENTAL

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 17A ENTITLED "RENTAL HOUSING" BY ADDING ARTICLE III THEREOF ENTITLED "TERMINATION OF TENANCY WITHOUT SPECIFIC TERM" BY PROVIDING THAT RESIDENTIAL TENANCIES WITHOUT A SPECIFIC DURATION IN WHICH THE RENT IS PAYABLE ON A MONTHLY BASIS MAY BE TERMINATED BY EITHER PARTY GIVING NOT LESS THAN THIRTY (30) DAYS' WRITTEN NOTICE PRIOR TO THE END OF ANY MONTHLY PERIOD, AND EXCEPT FOR THE NOTICE PROVISIONS SET FORTH HEREIN, PROVIDING FOR THE APPLICABILITY OF PART II, CHAPTER 83, FLORIDA STATUTES, GOVERNING "RESIDENTIAL TENANCIES" TO THE RENTAL OF RESIDENTIAL DWELLING UNITS IN MIAMI BEACH; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that Miami Beach City Code Chapter 17A entitled "Rental Housing" is hereby amended by the addition of Article III thereof entitled "Termination of Tenancy without Specific Term", to read as follows:

SECTION 1.

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* * *

Article III. "Termination of Tenancy without Specific Term".

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Section 17A-13. Applicability of Chapter 83, Florida Statutes.

Except for the notice provisions set forth in Section 17A-12 hereinabove, all other provisions set forth within Part II, Chapter 83, Florida Statutes, governing "Residential Tenancies" shall apply to the rental of a residential dwelling unit within the City of Miami Beach.

AGENDA ITEM R-3-E

DATE 7-28-94

SECTION 2. REPEALER

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

SECTION 3. SEVERABILITY

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 4. EFFECTIVE DATE

This ordinance shall take effect ten (10) days after its adoption, on _____, 1994.

PASSED and ADOPTED this _____ day of _____, 1994.

MAYOR

ATTEST:

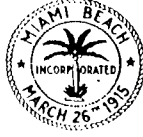
CITY CLERK
1st reading 7/13/94
2nd reading
JO/ks
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FORM APPROVED
LEGAL DEPT.
By *Aurèle D'Angelis*
Date *7/27/94*

OFFICE OF THE CITY ATTORNEY

City of Miami Beach

F L O R I D A



LAURENCE FEINGOLD
CITY ATTORNEY

P.O. BOX 0
MIAMI BEACH, FLORIDA 33119-2032
TELEPHONE (305) 673-7470
TELECOPY (305) 673-7002

COMMISSION MEMORANDUM NO. 391-94

DATE: MAY 18, 1994

TO: MAYOR SEYMOUR GELBER,
MEMBERS OF THE CITY COMMISSION AND
CITY MANAGER ROGER M. CARLTON

FROM: LAURENCE FEINGOLD *Laurence Feingold*
CITY ATTORNEY

RE: EXTENSION OF NOTICE PROVISIONS FOR TERMINATION OF
RESIDENTIAL TENANCIES WITHOUT A SPECIFIC DURATION

As the attached opinion of the Office of the Attorney General, dated May 5, 1994, indicates, the City has the power to extend notice provisions of the termination of residential tenancies without specific duration.

It should be noted that the opinions of the Attorney General do not have the same force and effect as actual case law. Nevertheless, the opinions of the Attorney General are quite persuasive, particularly when there is no case law.

The City Attorney desires instructions on how to proceed in view of the attached opinion of the Attorney General.

LF:lm



STATE OF FLORIDA

OFFICE OF ATTORNEY GENERAL

ROBERT A. BUTTERWORTH

May 5, 1994

Mr. Laurence Feingold
Miami Beach City Attorney
Post Office Box 0
Miami Beach, Florida 33119-2032

94-41

Dear Mr. Feingold:

On behalf of the Mayor and the City Commission of the City of Miami Beach, you ask substantially the following question:

May the City of Miami Beach by ordinance extend the notice provisions in section 83.57, Florida Statutes, for the termination of residential tenancies without specific duration?

In sum:

A municipal ordinance that merely supplements the notice provisions in section 83.57, Florida Statutes, would not conflict with the statute and would, therefore, be valid.

You state that present conditions in the City of Miami Beach create a hardship for tenants with month-to-month leases who are forced to vacate and relocate on fifteen days notice. The city commission is contemplating legislation that would require at least thirty days notice for the termination of residential tenancies of month-to-month or shorter duration. The question arises, however, whether the city would be preempted from legislating on this subject in light of the provisions in Part II, Chapter 83, Florida Statutes, or whether such local legislation would conflict with the state statute applicable to residential tenancies.

Chapter 166, Florida Statutes, the "Municipal Home Rule Powers Act," grants to municipalities broad home rule powers. This statute provides that "municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law."

Mr. Laurence Feingold
Page Two

94-41

Section 166.021(4), Florida Statutes, further provides that the statute is to be construed so as to secure for municipalities the broad exercise of home rule powers granted by the Constitution, general or special law, or in charter counties by the county charter, and to remove any limitations, judicially imposed or otherwise, on the exercise of home rule powers other than those expressly prohibited. Thus, municipalities may exercise any governmental power for municipal purposes except when expressly prohibited by law and may legislate on any subject matter on which the Legislature may act, except subjects preempted by statute to the state or county.²

The municipal power to regulate, however, is subject to the state's paramount power to regulate matters in order to protect public health, safety and welfare. A municipality's attempt to regulate in an area preempted by the state or where the regulation is inconsistent with general law or regulations adopted by the state would be invalid.³ In City of Miami Beach v. Rocio Corp.,⁴ the court held that municipal ordinances are inferior to state law and must fail when conflict arises. The Rocio court acknowledged that local and state legislation may be concurrent in areas not preempted by the state, but state law prevails over conflicting concurrent legislation enacted by a local government.⁵

In Jordan Chapel Freewill Baptist Church v. Dade County,⁶ the district court reviewed a Dade County ordinance that imposed regulations on bingo operations more strict than those prescribed by state statute. In recognizing that local ordinances may not conflict with state law, the court discussed that "conflict" exists when compliance with a county ordinance requires a violation of state statute or renders compliance with a state statute impossible.⁷ The Jordan court concluded that the state bingo statute constituted minimum regulations and contained no language that could be deemed a prohibition against additional stricter regulations by local government agencies.⁸ Finding that the county ordinance merely supplemented the state statute, the court determined that compliance with the county ordinance was possible without violating the state law.⁹

Chapter 83, Part II, Florida Statutes, the "Florida Residential Landlord and Tenant Act," applies to the rental of a dwelling unit.¹⁰ The act sets forth the rights and duties of landlords and tenants in the rental of dwelling units. There is no express preemption to the state of the regulation of residential tenancies. Section 83.57, Florida Statutes, however, states:

A tenancy without a specific duration, as defined in s. 83.46(2) or (3), may be terminated by either party

Mr. Laurence Feingold
Page Three

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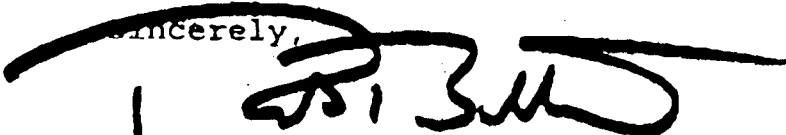
giving written notice . . . as follows:

- (1) When the tenancy is from year to year, by giving not less than 60 days' notice prior to the end of any annual period;
- (2) When the tenancy is from quarter to quarter, by giving not less than 30 days' notice prior to the end of any quarterly period;
- (3) When the tenancy is from month to month, by giving not less than 15 days' notice prior to the end of any monthly period; and
- (4) When the tenancy is from week to week, by giving not less than 7 days' notice prior to the end of any weekly period. (e.s.)

Thus, the Legislature has provided minimum notification rights to both the landlord and the tenant regarding the termination of a tenancy without a specific duration. There is no language in section 83.57, Florida Statutes, that may be construed as a prohibition against more lengthy notice requirements by a local government. The enlargement of the notification period by the City of Miami Beach by passing an ordinance requiring at least thirty days notice before termination of a month-to-month or week-to-week tenancy by either party would be supplemental to the state statute and compliance with such ordinance is possible without violating section 83.57, Florida Statutes.¹¹

Accordingly, I am of the opinion that the City of Miami Beach may enact local legislation extending the notice requirements for the termination of a tenancy without a specific duration. Such action by the municipality would supplement the provisions in section 83.57, Florida Statutes, and compliance with the resulting ordinance would not violate section 83.57, Florida Statutes.

Sincerely,



Robert A. Butterworth
Attorney General

RAB/tgk

¹ Section 166.021(1), Fla. Stat. (1993), implementing the powers granted in Article VIII, section (2)(b), Florida Constitution.

Mr. Laurence Feingold
Page Four

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² See, City of Tampa v. Braxton, 616 So. 2d 554 (Fla. 2d DCA 1993) (municipality opting for a code enforcement board under chapter 162, Florida Statutes, prohibited from enforcing its ordinances in any manner other than that described in chapter 162).

³ See, City of Miami Beach v. Rocio Corp., 404 So. 2d 1066, 1070 (Fla. 3rd DCA 1981), appeal dismissed and petition for review denied, 408 So. 2d 1092 (Fla. 1981).

⁴ 404 So. 2d 1066 (Fla. 3d DCA 1981).

⁵ Id. at 1070.

⁶ 334 So. 2d 661 (Fla. 3rd DCA 1976).

⁷ Id. at 664.

⁸ Id.

⁹ Id. at 664-665.

¹⁰ Section 83.43(2), Fla. Stat. (1993), defines "[d]welling unit" as:

(a) A structure or part of a structure that is rented for use as a home, residence, or sleeping place by one person or by two or more persons who maintain a common household.

(b) A mobile home rented by a tenant.

(c) A structure or part of a structure that is furnished, with or without rent, as an incident of employment for use as a home, residence, or sleeping place by one or more persons.

¹¹ Rocio at 1070 (an ordinance that supplements a statute's restriction of rights may coexist with that statute, whereas an ordinance that countermands rights provided by statute must fail).

CITY OF MIAMI BEACH, Appellant,

v.

ROCIO CORP., a Florida Corporation, and Rida Corp., a Florida Corp., and Carriage House Associates, a California General Partnership, consisting of Harvey Rosen, David Rosen, Lawrence Kates and Arthur Burdorf, Appellees.

No. 80-626.

District Court of Appeal of Florida,
Third District.

April 7, 1981.

City appealed from order of the Circuit Court, Dade County, Herbert M. Klein, J., enjoining city from enforcing condominium conversion ordinances. The District Court of Appeal held that: (1) Condominium Act does not either expressly or by implication preempt the subject of condominium conversion to state government, and therefore city's municipal ordinances concerning such conversion are not preempted by the Act, but (2) sections of Condominium Act regulating conversion of condominiums conflicts with city's municipal ordinances concerning such conversion, and therefore the city was correctly enjoined from enforcing them.

Affirmed.

1. Municipal Corporations ⇌ 592(1)

Condominium Act does not either expressly or by implication preempt the subject of condominium conversion to state government, and therefore city's municipal ordinances concerning such conversion are not preempted by the Act. West's F.S.A. §§ 166.021, 166.021(3)(c), 718.101 et seq., 718.507.

2. Municipal Corporations ⇌ 111(2)

Municipal ordinances are inferior to state law and must fail when conflict arises.

1. The Florida Legislature recently recognized the problem and enacted the Roth Act, ch.

3. Municipal Corporations ⇌ 111(2)

Although legislation may be concurrent, enacted by both state and local governments in areas not preempted by the state, concurrent legislation enacted by municipalities may not conflict with state law.

4. Municipal Corporations ⇌ 592(1)

Local ordinance which supplements a statute's restriction of rights may coexist with that statute, whereas an ordinance which countermands rights provided by statute must fail.

5. Condominium ⇌ 3

Injunction ⇌ 85(2)

Sections of Condominium Act regulating conversion of condominiums conflicts with city's municipal ordinances concerning such conversion, and therefore the city was correctly enjoined from enforcing them. West's F.S.A. §§ 718.101 et seq., 718.105, 718.107, 718.402, 718.501-718.504, 718.507.

John A. Ritter, City Atty., and Thomas M. Pflaum and Karen Alterman, Asst. City Attys., for appellant.

Lincoln Diaz-Balarat, Miami Shores, Legal Services of Greater Miami, Inc., for the City of Miami Beach as amicus curiae.

Nancy A. Cousins, City Atty., and Leonard Lubart, Asst. City Atty., for the City of Hollywood as amicus curiae.

Young, Stern & Tannenbaum and Norman Malinski, N. Miami Beach, for appellees.

Before HENDRY and BASKIN, JJ., and VANN, HAROLD R. (Ret.), Associate Judge.

PER CURIAM.

Cognizant of hardships endured by Miami Beach apartment residents when landlords repeatedly converted rental units into condominiums without regard to the growing apartment shortage, the City of Miami Beach enacted emergency ordinances designed to forestall the crisis¹ it perceived as

80-3, Laws of Fla., which amends the Condominium Act by permitting renters to extend

inevitable if convert their ordinances d ing leases a moratorium by the City² ing the City we address sidered by t of the partic conduniur the Florida Florida Stat er the ordin Condominiu the subject state law w The trial co and conflict both issues, expressly pi um convers City was pi the ordinat state law.

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inevitable if landlords were permitted to convert their remaining apartments. The ordinances delayed conversions by extending leases and by creating a ninety-day moratorium on conversions. In this appeal by the City² from a trial court order enjoining the City from enforcing the ordinances, we address the preliminary issues³ considered by the trial court upon stipulation of the parties: first, whether the subject of condominium conversion was preempted by the Florida Condominium Act, chapter 718, Florida Statutes (1979); and second, whether the ordinances conflict with the Florida Condominium Act. Either preemption of the subject by the state or conflict with state law would invalidate the ordinances. The trial court found that both preemption and conflict existed. Upon consideration of both issues, we hold that the state did not expressly preempt the subject of condominium conversion; we hold, however, that the City was properly enjoined from enforcing the ordinances because they conflict with state law. We affirm on that ground.

Ordinance No. 79-2169 provides that a developer may convert a rental unit into a condominium provided that each tenant shall have the right to extend an expiring lease for a period up to eighteen months. In the ordinance, the city commission declares that leases allowing landlords or developers at their option to terminate leases upon less than eighteen months notice to the tenant are against public policy. Ordinance No. 80-2197 prohibits an owner of multi-family housing units from converting rental housing to condominium units for a period of ninety days from the date of the ordinance. Ordinance No. 80-2201 corrects scrivener errors in Ordinance No. 80-2197.⁴

First, the City of Miami Beach contends that the legislature did not expressly pre-

leases for a prescribed number of days. The new legislation authorizes counties to permit additional extensions by ordinance under certain circumstances.

2. The problem exists not only in Miami Beach but throughout the state as well. The City of Hollywood, Florida and Legal Services of Greater Miami, Inc. have filed amicus-curiae

empt the subject of condominium conversion and that absent express preemption to the state, the City is free to enact ordinances restricting condominium conversion under the authority it derives from the Municipal Home Rule Powers Act, chapter 166, Florida Statutes (1979).

Next, the City argues that the ordinances in question are not in conflict with state law, but instead impose restrictions on activity already regulated by the state. It contends, therefore, that the ordinances supplement rather than conflict with state restrictions and are permissible municipal enactments. On this point we disagree.

1. Preemption.

[1] Municipalities derive their powers from the Florida Constitution. Article VIII, Section 2(b), Florida Constitution (1968) provides:

Powers. Municipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law.

The extent of municipal power or home rule has been questioned in the courts. In *City of Miami Beach v. Fleetwood Hotel, Inc.*, 261 So.2d 801 (Fla.1972), the supreme court held that the constitutionally provided powers were insufficient to permit a municipality to enact a rent control ordinance absent enabling legislation. In apparent response to *City of Miami Beach v. Fleetwood Hotel, Inc.*, *supra*, the Florida Legislature, in 1973, clarified the scope of municipal home rule and expressed a legislative purpose to remove limitations on the exercise of home rule powers by enacting the Municipal

briefs in support of the position advanced by the City of Miami Beach.

3. Other issues were reserved for future determination.

4. The injunction refers to Ordinance No. 80-2220. The parties have stipulated that 80-2201 is the correct number.

Home Rule Powers Act, ch. 73-129, Laws of Fla. (codified at ch. 166, Fla.Stat. (1973)). It acknowledged that municipalities may enact legislation on any subject upon which the state legislature may act unless expressly prohibited by law.

166.021 Powers.—

(1) As provided in s. 2(b), Art. VIII of the State Constitution, municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law.

(2) "Municipal purpose" means any activity or power which may be exercised by the state or its political subdivisions.

The legislature recognized certain exceptions:

(3) The Legislature recognizes that pursuant to the grant of power set forth in s. 2(b), Art. VIII of the State Constitution, the legislative body of each municipality has the power to enact legislation concerning any subject matter upon which the state Legislature may act, except:

(a) The subjects of annexation, merger, and exercise of extraterritorial power, which require general or special law pursuant to s. 2(c), Art. VIII of the State Constitution;

(b) Any subject expressly prohibited by the Constitution;

(c) Any subject expressly preempted to state or county government by the Constitution or by general law; and

(d) Any subject preempted to a county pursuant to a county charter adopted under the authority of ss. 1(g), 3, and 6(e), Art. VIII of the State Constitution.

(4) The provisions of this section shall be so construed as to secure for municipalities the broad exercise of home rule powers granted by the Constitution. It is the further intent of the Legislature to extend to municipalities the exercise of powers for municipal governmental, corporate, or proprietary purposes not ex-

pressly prohibited by the Constitution, general or special law, or county charter and to remove any limitations, judicially imposed or otherwise, on the exercise of home rule powers other than those so expressly prohibited.

§ 166.021, Fla.Stat. (1979).

The City of Miami Beach then enacted another rent control ordinance under the expanded authority afforded by section 166.021(1). In an action challenging the new ordinance, the supreme court in *City of Miami Beach v. Forte Towers, Inc.*, 305 So.2d 764 (Fla.1974), ruled that municipalities now possessed the power to enact such ordinances except when expressly prohibited by law, stating:

Ch. 73-129 is a broad grant of power to municipalities in recognition and implementation of the provisions of Art. VIII, § 2(b), Fla.Const.¹ It should be so construed as to effectuate that purpose where possible.² It provides, in new F.S. § 166.021(1), that municipalities shall have the governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services; it further enables them to exercise any power for municipal services, except when expressly prohibited by law.

305 So.2d at 766 (footnotes omitted); see Juergensmeyer and Gragg, *Limiting Population Growth in Florida and the Nation: The Constitutional Issues*, 26 U.Fla.L.Rev. 758, 764 (1974).

In light of these developments, we must decide whether condominium conversion is a subject "expressly preempted to state . . . government" and therefore excepted from the City's powers under section 166.021(3)(c). See also *City of Temple Terrace v. Hillsborough Association for Retarded Citizens, Inc.*, 322 So.2d 571 (Fla. 2d DCA 1975), *aff'd*, 332 So.2d 610 (Fla.1976); *City of Miami Beach v. Forte Towers, Inc.*, *supra*. The Florida legislature has spoken on the subject of condominium conversion in Chapter 718, Florida Statutes (1979), which defines as its purpose:

(1) To give condominium property.

(2) To establish, sale of units.

Every condominium in this state is subject to the provisions of § 718.102(1), either in its provisions, or exempt from the same.

Appellees which prohibit, placements, subject ownership, p. agree. The law read as a whole. *Lake Howell* 274 So.2d 51; statement of prohibition. The must be read *v. Miller*, 37 *Yellow Taxi* (Fla.1961).

We conclude expressed its power on the home rule with subjects. We subject of a City is there power on the included.

2. Conflict

[2] One derived legislation occurs when nances which of *Miami Beach* *supra*; see (1975); *cf. City*

5. We are aw pilled from co subject. 6 E Corporations

Cite as, Fla.App., 404 So.2d 1068

(1) To give statutory recognition to the condominium form of ownership of real property.

(2) To establish procedures for the creation, sale, and operation of condominiums.

Every condominium created and existing in this state shall be subject to the provisions of this chapter.

§ 718.102(1), (2), Fla.Stat. (1979). Nowhere, either in its statements of purpose or other provisions, does chapter 718 expressly preempt⁵ the subject to the state.⁶

Appellees argue that section 718.507, which prohibits laws concerning use, location, placement and construction of buildings, subject to the condominium form of ownership, preempts the subject. We disagree. The language of that section when read as a whole, *Florida Jai Alai, Inc. v. Lake Howell Water & Reclamation District*, 274 So.2d 522 (Fla.1973), is clearly not a statement of preemption, but is instead a prohibition against condominium discrimination. The plain language of a statute must be read to mean what it says. *Carson v. Miller*, 370 So.2d 10 (Fla.1979); *Phil's Yellow Taxi Co. v. Carter*, 134 So.2d 230 (Fla.1961).

We conclude that the legislature has expressed its purpose to afford municipalities home rule with the exception of preempted subjects. We find no preemption of the subject of condominium conversion. The City is therefore permitted to exercise its power on that subject unless otherwise precluded.

2. Conflict.

[2] One impediment to constitutionally derived legislative powers of municipalities occurs when the municipality enacts ordinances which conflict with state law. *City of Miami Beach v. Fleetwood Hotel, Inc.*, *supra*; see Fla.St.U.L.Rev. 137, 148-49 (1975); *cf. City of Miami Beach v. Frankel*,

5. We are aware that preemption may be implied from comprehensive state coverage of the subject. 6 E. McQuillin, *The Law of Municipal Corporations* § 21.34, at 250 (3d ed. 1980).

363 So.2d 555 (Fla.1978) (Authority granted by general law can be restricted by general law). Municipal ordinances are inferior to state law and must fail when conflict arises. *Rinzler v. Carson*, 262 So.2d 661 (Fla.1972); *City of Miami Beach v. Fleetwood Hotel, Inc.*, *supra*; *City of Wilton Manors v. Starling*, 121 So.2d 172 (Fla. 2d DCA 1960); 1979 Op.Att'y Gen.Fla. 079-71 (August 10, 1979); 1975 Op.Att'y Gen.Fla. 075-164 (June, 9, 1975); 3 Fla.St.U.L.Rev. 137, 148-49 (1975). *Contra* 1976 Op.Att'y Gen.Fla. 076-212 (November 10, 1976).

In *Rinzler v. Carson*, *supra*, the court declared:

Municipal ordinances are inferior in stature and subordinate to the laws of the state. Accordingly, an ordinance must not conflict with any controlling provision of a state statute, and if any doubt exists as to the extent of a power attempted to be exercised which may affect the operation of a state statute, the doubt is to be resolved against the ordinance and in favor of the statute. A municipality cannot forbid what the legislature has expressly licensed, authorized or required, nor may it authorize what the legislature has expressly forbidden. 23 Fla.Jur., *Municipal Corporations*, Section 93, p. 116; *State ex rel. Baker v. McCarthy* (1936) 122 Fla. 749, 166 So. 280; *Wilton Manors v. Starling* (1960, Fla.App.), 121 So.2d 172; *Baltimore v. Sitnick*, 254 Md. 303, 255 A.2d 376. In order for a municipal ordinance to prohibit that which is allowed by the general laws of the state there must be an express legislative grant by the state to the municipality authorizing such prohibition. McQuillin, *Municipal Corporations*, Vol. 5, Section 15.20.

262 So.2d at 668. The City maintains, however, that *Rinzler v. Carson*, *supra*, and *City of Miami Beach v. Fleetwood Hotel, Inc.*, *supra*, which provide for resolution of conflict questions by favoring state law over

Chapter 166, however, requires "express preemption".

6. See generally Deal, *Post-Mortem-Home Rule*, Fla.Municipal Rec., Nov.1980, at 2.

municipal ordinances, no longer have vitality. The City argues that the passage in 1973 of chapter 166, Florida Statutes, Municipal Home Rule Powers Act, and the opinion of the court in *City of Miami Beach v. Forte Towers, Inc.*, *supra*, provide municipalities with formerly absent power.

[3,4] Although the legislature has extended municipal powers in the Municipal Home Rule Powers Act, the issue of conflict with state law has not been addressed. In *City of Miami Beach v. Forte Towers, Inc.*, *supra*, the court overruled *Fleetwood* only with regard to the derivation of powers. The principle that a municipal ordinance is inferior to state law remains undisturbed. Although legislation may be concurrent, enacted by both state and local governments in areas not preempted by the state, concurrent legislation enacted by municipalities may not conflict with state law. If conflict arises, state law prevails. *Cf. Board of County Commissioners of Dade County v. Wilson*, 386 So.2d 556 (Fla.1980) (the enabling constitutional language of the Dade County Home Rule Charter provides that in the event of a conflict between a county ordinance and the Florida Constitution or general law, general law prevails).

An ordinance which supplements a statute's restriction of rights may coexist with that statute, *Elliott Advertising Co. v. Metropolitan Dade County*, 425 F.2d 1141 (5th Cir. 1970); *Jordan Chapel Freewill Baptist Church v. Dade County*, 334 So.2d 661 (Fla. 3d DCA 1976), whereas an ordinance which countermands rights provided by statute must fail. *Scavella v. Fernandez*, 371 So.2d 535 (Fla. 3d DCA 1979).

[5] Do the ordinances in question conflict with state law? The final judgment permanently enjoining the enforcement of the subject ordinances specified that conflict existed between the ordinances and sections 718.105, 718.107, 718.402, 718.501, 718.502, 718.503, 718.504, and 718.507 of the Condominium Act. The purpose of the Condominium Act, Section 718.102(1), is "to give statutory recognition to the condominium form of ownership of real property and to establish procedures for the creation, sale, and operation of condominiums." The statute does not restrict rights, but instead provides rights.

A comparison of the Condominium Act and the ordinances in question reveals apparent conflict:

- A. §718.105: Recording of Declaration. (1) When executed as required by § 718.104, a declaration together with all exhibits and all amendments is entitled to recordation as an agreement relating to the conveyance of land.
- B. Section 718.107 pertains to "Restrictions upon separation and partition of common elements."
- C. Section 718.402 permits "conversion of existing improvements to condominium."

Section 718.402(2)(a) permits a tenancy to expire no later than 180 days from date of notice to the tenant of the intended conversion.

Section 718.402(3)(a) prohibits cancellations of leases upon less than 120 days notice (with some exceptions).

Ordinance No. 80-2197 (as amended) prohibits filing of Declaration of Condominium for conversion for 90 days.

Ordinance No. 80-2197, §3 (as amended) prohibits as unlawful the converting of rental apartments for 90 days.

Ordinance No. 79-2169, §17A-29 provides that a tenancy can expire no later than 18 months after notice to the tenant.

Ordinance No. 79-2169, §17A-30 prohibits cancellation of leases upon less than 18 months notice.

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Affirmed

ORKIN EXTERMINATING CO. v. LEWIS

Fla. 1071

Cite as, Fla.App., 404 So.2d 1071

D. Section 718.501 delegates the power to enforce the provisions of chapter 718 to the Division of Florida Land Sales and Condominiums.

Ordinance No. 80-2197, §5 (as amended) gives the city power to enforce the prohibition against creating condominiums.

E. Section 718.502 requires filing with the Division of Florida Land Sales and Condominiums prior to sale or lease.

Ordinance No. 80-2197, §3 (as amended) prohibits filing of Declaration as unlawful for 90 days.

F. Section 718.503 provides disclosure requirements prior to sale.

Ordinance No. 80-2197, §3 (as amended) prohibits sale or conversion for 90 days.

G. Section 718.504 regulates the prospectus or offering circular.

Ordinance No. 80-2197, §3 (as amended) prohibits sale or conversion for 90 days.

H. Section 718.507 prohibits any law, ordinance or regulation which establishes any requirement concerning the use, location, placement or construction of buildings or other improvements which are or may be used as condominiums.

Ordinance Nos. 80-2197 (as amended) and 79-2169 regulate buildings which are or may be used as condominiums.

Appellant's contention that the Condominium Act merely regulates and therefore permits the City to impose a supplementary burden consistent with statutory purposes, see *Scavella v. Fernandez, supra*, is without merit. When conduct permitted by state law is prohibited by local ordinance, citizens become hopelessly entangled in a web of government. Under the circumstances presented in this case, the local ordinances must yield to state statutes if stability in government is to prevail.

In conclusion, we hold that the subject of condominium conversion has not been expressly preempted by the state. The City of Miami Beach has been authorized to enact ordinances relating to condominium conversion provided they do not conflict with state law. Because the challenged ordinances conflict with state law, the trial court correctly enjoined their enforcement.

Affirmed.

ORKIN EXTERMINATING COMPANY
and R. P. Hewitt & Associates,
Appellants,

v.

Douglas C. LEWIS, Appellee.

No. XX-154.

District Court of Appeal of Florida,
First District.

May 29, 1981.

Rehearing Denied June 26, 1981.

An Appeal from an Order of Doris H. Housholder, Deputy Commissioner.

Robert W. Elton of Smalbein, Eubank, Johnson, Rosier & Bussey, Daytona Beach, for appellants.

S. Peter Capua and Fred O. Pasternack, Miami, for appellee.

PER CURIAM.

AFFIRMED. This Court finds that the record contained competent, substantial evidence to support the deputy commissioner's order.

MILLS, C. J., and SHAW and JOANOS, JJ., concur.



PROPOSED ORDINANCE

REV A1

AN ORDINANCE AMENDING CHAPTER 17A OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, ADDING PROVISIONS FOR THE STABILIZATION OF RENTAL HOUSING ACCOMMODATIONS; DECLARING THE EXISTENCE OF AN EMERGENCY REQUIRING SUCH REGULATION; PROVIDING DEFINITIONS; IMPOSING MINIMUM NOTIFICATION PERIODS FOR RENT INCREASES; IMPOSING MINIMUM NOTIFICATION PERIODS FOR THE TERMINATION OF TENANCIES WITHOUT CAUSE; IMPOSING RENT INCREASE FREEZE DURING THE PENDENCY OF SUCH TERMINATION PERIOD; PROVIDING RELOCATION COSTS PAYABLE TO TENANTS FOR THE REDUCTION OF THE NOTIFICATION PERIOD TIME; PROVIDING FOR PENALTIES FOR NONCOMPLIANCE.

WHEREAS, a grave and serious public emergency exists with respect to the housing of a substantial number of residents of Miami Beach; and

WHEREAS, the pressure on the affordable rental housing market caused by the gentrification of Miami Beach and the scarce housing situation caused by the hurricane of August 24, 1992; an insufficient supply of new housing; and the rapidly escalating housing costs, have resulted in a substantial and critical shortage of safe, decent and reasonably priced housing accommodations as is evidenced by the low vacancy rates prevailing in the City causing the dislocation of many low, fixed and moderate income residents; and

WHEREAS, this emergency cannot be dealt with effectively by the ordinary operations of the private rental housing market, and unless residential rent increases are regulated and the termination of tenancy notice periods are extended beyond the State minimum, such emergency pressures therefrom will produce a serious threat to the public health, safety and general welfare of the residents of Miami Beach, Florida;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF CITY OF MIAMI BEACH, FLORIDA, that existing Chapter 17A of the Miami Beach City Code is amended by adding the following provisions:

SECTION 1. Short Title.

This Ordinance shall be known and may be cited as the Rent Stabilization Law.

SECTION 2. Definitions.

Unless a different meaning clearly appears from the context, the following terms shall mean and include:

A. Housing Accommodation. A residential unit in any building containing one or more residential rental units in which said units are occupied or are intended to be occupied by one or more individuals as a residence, together with the land and buildings appurtenant thereto; and all services, privileges, furnishings, furniture and facilities supplied in connection with the occupation thereof, including garage and parking facilities. The term "housing accommodations" shall not include:

1. Dormitories operated by any hospital, convent, monastery, asylum, public institution, educational institution, or any institution operated exclusively for charitable or educational purposes on a non-profit basis;

2. Dwelling units subject to condominium or cooperative ownership; unless three or more of said units are owned by an individual for the purpose of renting on a yearly basis;

3. Public housing accommodations;

4. Temporary residences, not to exceed six (6) months, arranged and paid for by social service agencies for which specific short term written agreements are entered whereby the landlord, tenant and social service agency are all parties;

5. Dwelling units customarily rented on a seasonal basis where: (1) the dwelling unit is rented only for a short seasonal period at a seasonal rental; or where (2) in addition to being rented for a short seasonal rental, it is also rented for the remainder of the year or a part thereof to a tenant or tenants other than the tenant or tenants who had rented for the seasonal period, at a rental substantially lower than seasonal rental. To qualify under this paragraph, the housing accommodation must have been rented on a seasonal basis for a period of time between _____, 1993, and _____, 1994. Exclusion from control under this Ordinance shall not apply to any housing accommodation where on _____, 1994, the occupants thereof had been occupying their housing accommodation under a lease whose term is not less than one year, have been in continuous occupancy for one year, or for which rent has been paid for one continuous year, regardless of the method or amount of rent payment which had been agreed upon by the landlord and the tenant.

The dwelling unit shall not come within the definition of "housing accommodation" only so long as it shall continue to be rented on a seasonal basis. Upon termination of such rental practice, the dwelling unit shall become subject to and governed by this Ordinance. The seasonal rental period shall be the period of the winter season, a period not exceeding six (6) months and generally including the months of December, January, February and March.

5. Immediate Family. Parents, step-parents, grandparents, children, step-children of either spouse or co-owner.

6. Rent. The consideration including any bonus, benefits or gratuity demanded or received for or in connection with the use or occupancy of rental dwelling units or the transfer of a lease of such rental dwelling units.

7. Services. Repairs, replacement, maintenance, painting, providing light, heat, air conditioning, hot and cold water, electric services, window shades and screens, storage, kitchen, bath and laundry facilities and privileges, janitor services, refuse removal, furnishing, parking, and any other benefit, privilege or facility of any rental dwelling unit. Services to a rental unit shall include a proportionate part of services provided to common facilities of the building in which the rental unit is contained.

8. Minimum Service Standards. Those services which were provided on _____, 1994.

SECTION 3. REQUIREMENT OF WRITTEN NOTICE OF RENT INCREASE.

1. Rent Increase. It shall be unlawful for a landlord to increase the amount paid for rent, as defined in Section 2.6 above, without giving written notice as follows:

- (a) When tenancy is from month to month, by giving not less than 180 days' notice prior to the end of any monthly period;
- (b) When tenancy is from week to week, by giving not less than 180 days notice prior to the end of any weekly period;
- (c) When tenancy is on an annual basis, by giving not less than 180 days' notice prior to the end of any annual period.

2. Notice.

A. Form. All rent increase notices shall be written notices. The notice shall be adequate if it is in substantially the following form:

You are advised that the amount of rent you pay for unit _____ will be increased by \$_____ effective within 180 days; to wit: on _____, 19____ your rent will increase to _____.

The landlord must complete the notice by providing the landlord or agent's full name, address and phone number or the notice shall be construed as unenforceable and void.

B. Delivery. All such written rent increase notices shall be by mailing or delivery of a true copy thereof or,

if the tenant is absent from the premises, by leaving a copy thereof at the residence.

C. Due Process Provision. To insure minimal due process, the written rent increase notice shall be bilingual, written in English and in the tenant's primary language. Failure to provide a bilingual notice shall be construed as unenforceable and void.

SECTION 4. TERMINATION OF TENANCIES WITHOUT SPECIFIC TERM.

1. Termination of Tenancy. It shall be unlawful for a landlord to terminate a tenancy without a specific duration without giving a written notice as follows:

(a) When the tenancy is from month to month, by giving not less than 180 days' notice prior to the end of any monthly period; and

(b) When the tenancy is from week to week, by giving not less than 180 days' notice prior to the end of any weekly period.

2. Rent Freeze. It shall be unlawful for a landlord to increase a tenant's rent by greater than 3% during the pendency of the termination period.

3. Buy-Out Provision. Any landlord terminating a tenancy under the provisions of this section may choose to "buy-out" the tenant's right to remain on the premises at the following rates:

(a) If the tenant agrees to vacate the premises within 30 days after receipt of the written notice, the landlord shall pay \$1,000;

(b) If the tenant agrees to vacate the premises within 60 days after receipt of the written notice, the landlord shall pay \$750;

(c) If the tenant agrees to vacate the premises within 90 days after receipt of the written notice, the landlord shall pay \$500; and

(d) If the tenant agrees to vacate the premises within 120 days after receipt of the written notice, the landlord shall pay \$250.

The written notice of termination must include the buy-out schedule and the landlord's statement of the landlord's intention whether or not the landlord will to offer to buy-out the tenant's rights to remain on the premises.

2. Notice.

A. Form. All termination notices shall be written notices. The notice shall be adequate if it is in substantially the following form:

You are advised that your tenancy is terminated effective _____, 19____. You may remain as a tenant for a period of 180 days, that is, until _____, 19_____.

However, I choose (yes) _____/ (no)_____ to exercise my option to offer to buy out your right to remain in possession. If I have checked "yes" and you agree to vacate at an earlier date, relocation costs will be paid to you at the following rate:

vacate within 30 days:	\$1,000
vacate within 60 days:	\$ 750
vacate within 90 days:	\$ 500
vacate within 120 days:	\$ 250

The landlord must complete the notice by providing the landlord or agent's full name, address and phone number or the notice shall be construed as unenforceable and void. The notice and buy out provision will in no way interfere with the tenant's rights to the return of any security deposit.

B. Delivery. All such written termination notices shall be by mailing or delivery of a true copy thereof or, if the tenant is absent from the premises, by leaving a copy thereof at the residence.

C. Due Process Provision. To insure minimal due process, the written termination notice shall be bilingual, written in English and in the tenant's primary language. Failure to provide a bilingual notice shall be construed as unenforceable and void.

SECTION 5. HARASSMENT.

1. It shall be unlawful for any person, with the intent to cause any tenant to vacate housing accommodations, to engage in any course of action or conduct, including, but not limited to: interruption or discontinuance of minimum services; interference with or disturbance of the comfort, repose, peace or quiet of such tenant in his/her use or occupancy of the tenant's housing accommodations.

2. It shall be unlawful for any person to remove or attempt to remove a tenant from his/her housing accommodation because the tenant has taken, or proposes to take, action authorized or required by this Ordinance or any existing building, housing, health or fire codes.

3. If a tenant vacates his/her housing accommodation as a result of actions that are in violation of this Section, such acts shall be considered "prohibited practices" and the tenant shall be permitted to recover in an action at law three times the rent in damages, or actual incurred damages, as well as reasonable attorney's fees and court costs. Damages shall include the costs of moving as well as the differential in rent between that rental which the tenant had been paying prior to vacating and the new rental paid. Said differential shall be computed for a two-year period. Such action must be commenced within two (2) years from the date that the tenant vacates the housing accommodation in question.

SECTION 6. SURVIVORSHIP.

In the event of the death of a tenant, the rights of such deceased tenant shall inure to the surviving spouse or other person then in tenancy.

SECTION 7. WAIVER.

Waiver of the provisions of this Ordinance by the tenant shall be unenforceable and void.

SECTION 8. PENALTY.

Any person who willfully violates any provision of this Ordinance shall, upon his/her conviction of a first violation, be subject to a fine not to exceed \$1,500; and for each subsequent offense, shall be subject, upon conviction, to a fine of up to \$1,500 and/or imprisonment for a period not to exceed 60 days.

SECTION 9. PRIVATE RIGHT OF ACTION.

A landlord who violates the provisions of this Ordinance shall be liable to the tenant for actual and consequential damages or 3 months rent, whichever is greater, and costs, including attorney's fees. Subsequent or repeated violations which are not contemporaneous with the initial violation shall be subject to separate awards of damages.

SECTION 10. OTHER REMEDIES.

The remedies provided by this Ordinance are not exclusive and shall not preclude the tenant from pursuing any other remedy at law or equity which the tenant may have.

DISPLACEMENT CHECKLIST

Instructions Please review your agency's files to complete this survey of displaced Miami Beach residents. Please circle yes or no ("Y/N") and provide any other available information. No disclosure of any identifying information (such as names, social security numbers, etc.) is required.

REASON FOR DISPLACEMENT:

1. Increase in rent? Y/N if yes, from \$ _____ to \$ _____

Comments: _____

2. Termination of Tenancy? Y/N if yes, check all applicable causes:

- A. Nonpayment _____
- B. Condo conversion _____
- C. Building sold to new owner _____
- D. Owner rehabing building _____
- E. Tenant locked out _____
- F. Termination notice _____
- G. Eviction in court _____
- H. Eviction without court _____
- I. Other (describe) _____

3. Was tenant displaced due to unsafe/unsanitary conditions? Y/N if yes, check cause:

- A. City condemned building or apartment _____
- B. Apartment or building had fire _____
- C. Roof leaks _____
- D. Plumbing problems _____
- E. Other (describe) _____

4. Did tenant pay rent by the week? Or by the month?

5. Address tenant displaced from _____

6. Address tenant moved to _____

7. Did tenant remain in Miami Beach? Y/N
8. Was this tenant ever displaced in the past? Y/N
 When? How many times? Unknown

FAMILY/STATISTICAL INFORMATION:

1. Number in household _____
2. Number of children under age of 18 years _____
3. Ethnicity (please circle):
- | | |
|---------------------|---------|
| African-American | Asian |
| White, non-hispanic | Haitian |
| Hispanic | Jewish |
4. Is there anyone disabled in the household? _____
5. Is there anyone elderly in the household? _____
6. Income of household \$ _____ per week/month/year

thank you!

AGENCY: _____

ADDRESS: _____

PHONE: _____ FAX: _____

PREPARED BY: _____

RECEIVED
94 JUL -8 PM 2:35
DEPT. OF COMMUNITY DEVELOPMENT
PRESIDENTIAL

Affordable Housing Coalition

July 7, 1994

To: Mayor Seymour Gelber and Members of
the Miami Beach City Commission

Fr: ***Affordable Housing Coalition***

Re: Housing Concerns and Proposed Legislation

Representatives of concerned organizations were convened by Commissioner Nancy Liebman and the City Attorney's Office for the purpose of providing input into the development of an Ordinance to extend the Notice Requirement for termination of tenancy. The following organizations participated in the meetings: Legal Services of Greater Miami, RAIN Mothers of Feinberg-Fisher Elementary School, Douglas Gardens Community Mental Health Center, UNIDAD, Miami Beach Senior Center, Miami Beach Development Corporation Miami Beach Housing Authority, and the City of Miami Beach Housing and Community Development Division.

We believe that the Ordinance proposed by the City Attorney's Office does not go far enough in addressing the housing crisis now facing low income families in South Beach. Our collective experience leads us to recommend that the City strengthen the protections by extending the Notice Requirement to 120 days for termination of tenancy and also for rent increases, with a special exemption to cover relocation assistance made possible by a government agency or non-profit organization.

We ask you to take expedited action to adopt a comprehensive series of steps to more adequately address the preservation and development of affordable housing in our community, including tenant protection and stimulating affordable housing development through incentives and appropriate requirements.

We urge that the workshop meeting proposed by the City Administration address the full range of landlord tenant issues that could alleviate the current housing crisis, including all of those that have been proposed by Legal Services. We request that the City forward the legislation proposed by Legal Services to the Attorney General for advice.

We urge the City to fully support and participate in the conference being organized by The Miami Beach Housing Authority to focus on stimulating affordable housing development through enactment of incentives and appropriate requirements. The enclosed letter from Matti Bower to Commissioner Liebman addresses some of the ways that the City can foster affordable housing.

We also forward to the City Commission "*The South Beach Housing Crisis: Options for Meeting the Needs of Very Low-Income Families,*" prepared for R.A.I.N. (Referral and Information Network) by Planning Consultant Xavier de Souza Briggs. While this report recognizes the central responsibility of the City of Miami Beach to plan and facilitate affordable housing, it also extends its proposed action steps to include not just the City but all of the responsible agencies and organizations that can contribute to that effort.

We call upon you to fully address the crisis in housing faced by our community's low-income families, the disabled and our frail and elderly seniors.

MIAMI BEACH DEVELOPMENT CORPORATION
1205 Drexel Avenue, Second Floor
Miami Beach, Florida 33139

Telephone (305) 538-0090 - FAX 538-2863

June 30, 1994

The Honorable Nancy Liebman
Miami Beach City Commissioner
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

Dear Nancy:

At the meeting you convened to focus on extending the Notice requirements for evictions, we also discussed ways to expand affordable housing through requirements and regulations as well as encouragements and incentives.

The Florida Housing Finance Agency evaluates the Local Government Planning Effort for Affordable Housing as a part of the LITC Applications. In the recent tax application round, the City of Miami Beach's planning efforts for affordable housing was scored 17-1/4 out of 50 points.

The following criteria is used for the evaluation:

1. Adopted ordinance specified in s. 420.9072(2)(b), Florida Statutes (SHIP Program).
2. Local Housing Assistance Plan specified in s. 420.9072(2), Florida Statutes (SHIP Program).
3. Resolution or ordinance adopting an Affordable Housing Incentive Plan as specified in s. 420.9076, Florida Statutes, reviewed by the Florida Housing Finance Agency (SHIP Program).
4. Expedited processing of permits for affordable housing.
5. Modification of impact fee requirements, including reduction or waiver of fees and alternative methods of fee payment.
6. Allowance of increased density levels.
7. Reservation of infrastructure capacity specifically for housing for very low-income and low income persons.

8. Transfer of development rights as a financing mechanism for housing for very low-income and low income persons.
9. Reduction of parking and setback requirements.
10. Allowance of zero lot line configurations.
11. Modification of sidewalk and street requirements.
12. Formal process for consideration, before adoption by the local government of the potential impact of policies, procedures, ordinances, regulations or plan provisions upon affordable housing.
13. Preparation and availability of a printed inventory of locally owned public lands suitable for affordable housing.
14. Local Land Bank or policy of contributing publicly owned land at no or low cost to developers of affordable housing.
15. Revolving loan fund capitalized with local public or private financing to create or preserve affordable housing.

It would be very helpful to positively address these issues in order to attract State and Federal funding and to stimulate affordable housing.

Sincerely,

Matti Bower

Matti Bower, Chairperson
Miami Beach Development Corporation

cc: Shirley Taylor-Prakelt

**The South Beach Housing Crisis:
Options for Meeting the Needs of
Very Low-Income Families**

9 June 1994

Report prepared for: Referral and Information Network (R.A.I.N.)
The Healthy Learners Project
Feinberg-Fisher Elementary School
1424 Drexel Avenue
Miami Beach, Florida 33139

PlanningByDesign
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Xavier de Souza Briggs
President

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**The South Beach Housing Crisis:
Options for Meeting the Needs of Very Low-Income Families**

1. INTRODUCTION

PlanningByDesign was retained by the Referral and Information Network (R.A.I.N.) of The Healthy Learners Project, a model parent involvement and service integration initiative based at Feinberg-Fisher Elementary School in the heart of South Beach.¹ We were asked to identify strategies to alleviate the severe housing displacement impacting families on South Beach. *Based on level-of-service figures provided by Legal Services of Greater Miami, between 30 and 60 families face eviction each month in South Beach.* And while the South Beach community is home to a range of income levels—each with somewhat distinct housing needs—R.A.I.N. targets very low-income families (i.e., families at or below 50% of area median income) whose children attend Feinberg-Fisher. This report therefore focuses on their needs. Most of these families are immigrants, many of them Latino. Their need for stable, affordable housing is acute and immediate. *These are families at direct risk of homelessness—families for whom housing is one of the keys to self-sufficiency.*

While a host of opportunities and strategies have been discussed on the Beach, no local organizations have a significant track record of developing affordable housing, and City action on behalf of very low-income families has thus far been minimal in the housing area—limited primarily to relocation assistance. Not surprisingly, therefore, progress in addressing the housing needs of these families has paled before the progress of the private sector in consuming available properties for market-rate use. The clock is ticking for very low-income families who call South Beach home. A genuine window of opportunity may be lost if actions are not better coordinated and appropriately large in scale and if the private market is not leveraged to help expand the supply of needed housing.

This is an action-oriented report and not a needs assessment. It assumes that readers are well aware of the gentrification reshaping the physical and social character of South Beach, of the bull real estate market driving this gentrification, and of the soaring rents and displacement of families which result. This report draws heavily on: the City of Miami Beach's Comprehensive Housing Affordability Strategy (CHAS) and Year 2000 Comprehensive Plan; background reports, planning materials, and grant requests by Miami Beach Development Corporation (MBDC) and the Miami Beach Housing Authority (MBHA); the R.A.I.N. Housing Survey; and discussions with MBDC, MBHA, Legal Services of Greater Miami, City and school officials, R.A.I.N.makers, and others.

¹ The Healthy Learners Project is managed by the Institute for Children and Families at Risk at Florida International University (FIU) in Miami; the project is funded by the Danforth Foundation.

In a February meeting arranged by R.A.I.N., a group of housing advocates expressed to the City Manager their desire to work more closely with the City on the housing crisis—in part by generating a “community response to the CHAS” that would supplement the official document, elaborating on strategies to meet the housing needs of very low-income families. This report represents R.A.I.N.’s preliminary contribution to that supplement to the CHAS. Following a brief overview, this report links analyses to specific *action strategies and policy recommendations* for the following groups:

- The City of Miami Beach
- Miami Beach Housing Authority (MBHA)
- Miami Beach Development Corporation (MBDC)
- Metro-Dade County
- The U.S. Department of Housing and Urban Development (HUD)
- R.A.I.N. and Other Community Residents
- The Healthy Learners Consortium (including Legal Services of Greater Miami)

2. OVERVIEW OF CONDITIONS, TRENDS AND EXISTING PROPOSALS

The City’s assessment of South Beach housing needs and its delineation of programs appropriate to addressing them is found in two documents: the *Comprehensive Housing Affordability Strategy* (CHAS), December 1993, filed to meet federal requirements; and the *Year 2000 Comprehensive Plan* (November 1993), amendments for which were filed in 1994 to meet state growth management requirements. Both documents are helpful as a starting point, but neither articulates a comprehensive recipe for housing development that would address the needs of very low-income families, given market conditions and institutional capacity in the area.

The CHAS notes that 53% of all renters in the City of Miami Beach are very low-income and that there is a waiting list of 4,000 for Section 8 housing vouchers, of which Housing Authority Director David Nevel estimates that 2,000 are Beach residents—an astounding figure for a city of this size. While no precise figures on families displaced from housing or at risk of displacement are available, the CHAS cites the R.A.I.N. Housing Survey to highlight three problems facing very low-income families on South Beach: overcrowding, eviction, and difficulty finding landlords willing to rent to adults with children.

The CHAS also identified six top priorities for City action. The third, “Develop programs to prevent residents threatened with loss of housing from becoming homeless,” only mentions City support for “tenant counseling and tenant-landlord arbitration” as an appropriate strategy. There is no mention of an extension to the required 15-day eviction notice or expanding housing *supply* for families at-risk of homelessness. This is surprising, since in a bull real estate market like that found in South Beach, labor-intensive arbitration and counseling, while helpful on the margin, are very unlikely to yield enduring benefits for families. Like the relocation assistance MBHA can offer, counseling

and arbitration are *provisional measures which should be pursued while housing supply is expanded*; it is on the supply issue that labor, funds, and political will should be focused, now that the City and MBHA have made a joint commitment to provide relocation funds. Finally, although creating new rental housing (for which very low-income families are most likely to qualify) is not in the top three CHAS priorities, the City of Miami Beach clarified, in a December 1993 Commission meeting, that the CHAS is "resource-driven." That is, families should expect City action to reflect the fact that the six CHAS priorities are "on a level" and not hierarchically arranged.

While not required by federal law, two important types of information are not found in the CHAS:

- **A target number of housing units** (new and/or rehabilitated) that the City aims to make affordable for very low-income families, counting on support from public and private sector players. While the City cannot unilaterally commit to creating the needed units, involving a coalition of players in setting an annual or bi-annual housing target would serve as a *benchmark* for measuring progress on the housing crisis—a significant tool for holding all parties accountable for results.
- **Information on where needed housing should be developed.** The "where" of housing production is missing in the CHAS, along with "how much." Other than projects in the pipeline, no target blocks or block areas are mentioned, and while identifying specific properties would be inappropriate in the CHAS, the City has not otherwise moved to consider suitable buildings, lots, and blocks. Given the small scale of this community and the pace of gentrification, taking such action now is critical. (See recommended "charette on affordable housing" below.)

In addition to the CHAS, the City's official statement of housing needs and priority programs, housing advocates must also consider how the recent **Year 2000 Comprehensive Plan Amendments** address or fail to address—promote or inhibit—affordable housing development. Here, it should be noted that the "Comp Plan" is necessarily a "macro" statement of key goals and significant trade-offs citywide. It does not and cannot address South Beach in the detailed way that a neighborhood plan would (see below). Still, a number of elements in this Comp Plan are potentially significant for the housing crisis.

First, the Plan reaffirms the City's support of mixed-use districts in South Beach but notes that the City must manage trade-offs between what is good for tourism/entertainment businesses and what is good for families residing nearby. It notes that most vacant land for new construction is found in South Pointe (10 acres) and the nearby Flamingo area (11 acres). The Plan also calls for housing unit enlargement to reduce the overcrowding of families and for infill housing development to complement existing uses in the South Pointe area—two development guidelines with implications for affordable housing development (see recommendations below).

The housing element of Plan further states that the "main problem" facing Miami Beach as the year 2000 approaches is *not* the lack of units but the need

to raise the occupancy rate of existing housing units. This is clearly untrue where very low-income families are concerned, and it is surprising since the Plan itself estimates a *shortfall of 3,178 units for very low-income households* (including but not limited to family households) and projects that this shortfall will grow over the next few years. The seeming contradiction in these statements suggests to us that the City should clarify what priority very low-income families and other households will be given in the planning and development processes. Participating in a neighborhood-scale and neighborhood-based planning effort led by residents and nonprofits would be one way to do so (see recommendations below). On its own, the Comp Plan does not articulate how resources (say, vacant land) will be allotted to meet somewhat divergent goals—attracting middle and upper-income households and downzoning to encourage private investment, for example, while meeting the acute housing needs of lower income families who fill an important niche in the City's labor force.

The Comp Plan notes appropriately that “policies that discourage conversion of residential to non-residential uses would support housing goals.” But in a January planning commission meeting, the City proposed just such a conversion—rezoning a large apartment building on Washington Avenue to allow hotel use. While this rezoning would not *directly* impact an affordable property, if the building is bought and becomes a hotel, the rental market would be further squeezed—with effects rippling downward to the lowest income families. Such indirect and easily overlooked effects are typical of a rapidly changing, mixed-use area like South Beach, and housing advocates must do their part to track and inform government action. It seems reasonable to ask, however, that in the future, and in keeping with the Plan, the City assess planning and zoning decisions for potential housing market effects and not simply for traffic congestion, employment impacts, project feasibility, etc.

Finally, the Comp Plan states that in interviews with community leaders, “there was no perception of financing or government regulations as a major blockage to housing production.” This finding is surprising, since a 1990 study by the Center for Affordable Housing, a national group, found that 70% of developers consider local regulatory controls to be barriers to the production of low-cost housing. Although Miami Beach is historically “pro-development” and has engineered a remarkable transformation in South Beach, in part with developer incentives, the City has not yet established the “affordable housing friendly” measures used successfully by cities with similar housing needs. These include policies to cut the costs of development and expedite it.

Overall, the Comp Plan sends mixed signals about affordable housing and offers few specifics on how planning might be a tool for alleviating the housing crisis. While the state's growth management law (which generated the comprehensive planning requirement) is stricter on environmental than on housing issues, and while the Comp Plan *cannot* offer the specifics that a neighborhood plan would, the City is well-positioned, with the Comp Plan and CHAS as starting points, to work more proactively on behalf of very low-income families. The next section suggests how.

3. RECOMMENDED STRATEGIES AND POLICIES

While gentrification and displacement are by no means unique to South Beach, the community is special; its problems and opportunities call for more than a formulaic approach. Unlike the overview, which focused on the City role outlined in the CHAS and Comprehensive Plan, this section emphasizes the coordination and commitment of *multiple* players. Only collaborative action can hope to address the scale and complexity of this housing crisis, and such action must consider both the *political* and *technical/financial* challenges associated with affordable housing development. While few of these proposals are new, a number of them would be new on the Beach.

A. The City of Miami Beach

As outlined in the overview above, the City can take a more proactive approach to the housing crisis, leveraging the private market, considering the housing market effects of planning decisions in the area, and taking more strategic action to facilitate the work of affordable housing developers. The City should continue to support projects currently in the pipeline, such as MBHA's Women and Children's Resource Center. These recommendations focus not on specific projects but on *policy changes* and *special actions* that would impact the success of all projects.

1. **Set an annual or biannual target number of housing units to be developed for very low-income households (both family and non-family).** Based on careful analysis and public discussion with all stakeholders, this target would drive the housing development process, clarify the priority that housing for very low-income families is to receive (relative to other needs), and help keep all players accountable for results.
2. **Explore fast-track design review and permitting, the waiving of fees, and other "streamlining" options to facilitate the work of affordable housing developers.**² Orlando created a demonstration project in *ownership* housing using such streamlining, and the same benefits apply to rental housing development.³ This amounts to "greasing the skids" for housing developers once the site, project design, and financing are in place. It would *lower costs* and *speed* the development of affordable housing—two important things in a bull market like that reshaping South Beach. At present, the developer incentives in the Enterprise Zone on South Beach and the South Pointe Redevelopment Area do not appear to include such "affordable housing friendly" measures, and while such measures were hinted at in the draft CHAS, the final version does not mention them.

² A useful and up-to-date reference is S. Mark White, *Affordable Housing: Proactive and Reactive Planning Strategies* (American Planning Association Press, PAS Report #441, 1992).

³ See Marie L. York, "The Orlando Affordable Housing Demonstration Project," *Journal of the American Planning Association* (Autumn 1991). Dr. York is a planner and housing specialist based in Broward County at the Joint FAU/FlU Center for Urban and Environmental Problems. The Joint Center is a source of technical assistance and background research.

3. **Address the scarcity of developable properties and the pace of gentrification by creating a comprehensive inventory of development opportunities for affordable housing in South Beach.** Such an inventory, a development opportunities map and database, would be a labor-saving, "one-stop shop" for affordable housing developers and, once created, the database and map could easily be updated. It would focus the efforts of both private and public sector organizations and would be an excellent resource for a participatory housing charette (see below). It should include vacant land, rehabilitatable residential buildings, potential housing-over-storefront spaces, zoning, the status of projects in the pipeline and policies under review, etc.
4. **Hold a siting and design workshop—a charette—on affordable housing construction, like that held for market-rate development on South Pointe, to identify specific sites, design issues, and social and financial trade-offs associated with various properties.** Not only would this strong signal the City's commitment to mixed-income development of South Beach. It would be a concrete way to launch city planners into a more proactive role. Some of the country's most renowned architects, among them Miami's own Andrés Duany and Elizabeth Playter-Zyberk, rely on charettes to promote clear planning and cost-effective implementation. They do this by involving a range of players up-front in "big picture thinking." The same creative thinking and coordination is needed to promote affordable housing. Many planning departments around the country are in fact "permitting departments" or top-down, long-range planning agencies. The urgency of the housing crisis on South Beach calls for a more proactive, participatory approach.
5. **The City should leverage the bull real estate market and act on the stated goal of creating a viable, diverse community for families at various income levels by creating incentives for mixed-income housing development—through inclusionary zoning, for example.** ⁴ A number of cities have used this successfully to help meet affordable housing needs; Montgomery County, Maryland has had twenty years of success and recently revised its statute requiring a set aside percentage of moderately-priced dwelling units (MPDUs) in all developments of scale. On South Beach, Affordable Landmarks is currently developing a mixed-income building. And while inclusionary zoning and other measures that "piggy back" the private market would have been most helpful if they were enacted *early* in the South beach building boom, it is not too late to ensure that affordable units are included in large, market-rate residential projects. South Pointe, with acres of vacant land, represents one "frontier" for mixed-income developments. Its nationally renowned elementary school, marina, and other amenities make it the ideal magnet for market-rate renters and buyers in a mixed-income development. The City's CHAS emphasizes more efficient use of *land*, but real estate markets can also be

⁴ Again, see White (1992) for a range of examples nationwide and a thoughtful discussion of the costs and benefits associated with various models. See also Elizabeth Mulroy, "Mixed-Income Housing in Action," *Urban Land* (May 1991) for more on the social and financial issues associated with specific projects.

used efficiently to create substantial public benefits. In addition, mixed-income development makes market sense in two ways: a) lower-income workers in the area's tourism/entertainment industry can live near their jobs, reducing traffic, parking demand, and pollution; and b) the area would maintain a more diverse base of housing "slots" and be better prepared for market swings. A City or community with a housing stock almost exclusively made up of luxury housing is like a one-legged stool. While the area is likely to remain popular with the tourists, locals seeking entertainment, and the fashion industry for years to come, all markets experience swings. Mixed-income development is a tool for protecting financial and social integrity. It helps ensure high, year-round occupancy and predictable property tax revenues for the City.

6. **As a complement to the mixed-income initiative, large-scale developers should be given incentives, through the design review process, for example, to contribute to an affordable housing fund.** The difference here is that developers would be helping to develop housing off-site, as opposed to within their developments (see #4, above). In addition, whereas the Documentary Surtax is just that—a tax on all development—the housing fund contribution would be a voluntary *quid pro quo*—housing dollars for design flexibility, faster permitting, etc.
7. **The City should advocate that Metro-Dade County modify the Documentary Surtax Program to better meet the acute housing needs of very low-income Miami Beach families.** The existing program, a tax on development to raise funds for affordable housing countywide, is inadequate in two ways: 1) Miami Beach is not guaranteed its *fair share* of surtax monies, despite the fact that its building boom generates millions for the County fund each year; 2) Miami Beach cannot allocate an appropriate percentage of surtax monies to rental housing production. The County (see below) should create a fair share formula and allow localities greater flexibility in allocating funds to rental vs. ownership housing, according to local conditions. A homeownership conversion program would be appropriate and desirable over the long term—that is, the conversion of apartment renters to co-op owners (as in the federal HOPE II program). But in the near term, rental housing developments for very low-income families are more likely to be financially viable, and the Surtax Program is a constraint under current policy.
8. **All zoning and other land use changes for South Beach, those included in the November 1993 Draft amendments to the Comprehensive Plan and others that arise, should be examined for their potential effect(s) on housing affordability.** Assessment should distinguish potential effects on very low, low, and moderate-income households.
9. **Extend the 15-day eviction notice requirement to 2 months, and continue relocation assistance as the supply of affordable housing is being expanded.** Equity demands that some of the fees generated by the building boom be used to fund the relocation that mitigates the hardship created by displacement—a direct social cost of rapid, luxury-oriented real estate development. In addition, the State Attorney confirmed recently

that state law does not prevent the City of Miami Beach from enacting a local extension of the eviction notice requirement.

10. **Establish and provide staff support for a working group to consider trade-offs associated with the current definition of "overcrowded housing."** The CHAS and Comprehensive Plan mention the inadequate configuration of the City's housing stock for families, and some large families are surely without adequate space. But reconfiguring one-bedroom and studio apartment units for occupancy as two- and three-bedroom units is costly, and it reduces the number of families served by each dollar invested. As a number of housing experts around the country have reminded us in recent years, space standards are not only about safety but about *culture*. Room shares among family members—for example, young siblings—that may violate occupant per bedroom standards may be perfectly acceptable to families. Many of this country's immigrants lived decently in less space than that required by local law—relying on large families in small quarters to maximize earnings under one low-cost roof. Cities like San Diego have added flexibility to space requirements in certain affordable housing developments, and the Beach should explore it as another lever on the housing crisis. The proposed *working group* of residents, planners, and developers would use site visits and focus groups to develop a thoughtful and balanced discussion of the trade-offs associated with such flexibility. The group's report could be used to secure project-specific waivers from the County and, where necessary, from HUD. But City support is the critical starting point.
11. **Explore zoning changes to allow the development of affordable "housing over the storefront—for example, in the retail zone between Fifth and Sixth Streets.** Not only would this open up competitively priced second floors for residents—those who want to buy luxury condos are *not* anxious to live over bicycle shops—it would also add "eyes on the street" around the clock to promote safety. Street fronts that would normally have little or no pedestrian traffic or surveillance late at night would now be home not only to businesses but to families invested in keeping them safe. Once a common feature on main streets and an important component of housing affordability in northern cities with tight rental markets and many low-income workers, housing over the storefront is coming back. Toronto has a model program underway.⁵ In addition, some second-floor retail spaces are probably already in use as housing on South Beach. While making such housing allowable is unlikely to create a large number of units, it represents a potential low-cost element in a larger strategy and would offer *multiple* benefits to the mixed-use area.
12. **Work with a consortium of residents and community-based organizations to develop a short/medium range neighborhood plan for South Beach.** The area is begging for an integrated, neighborhood plan. It has: clear boundaries, a diversity of residents by racial/ethnic group as well as income level, a mixed-use character, and a bull real estate market that is quickly transforming the community's visual, economic, and social character. While MBDC has prepared several detailed commercial

⁵ See Don Procter, "Living Over the Store in Toronto," *Planning* (August 1992).

revitalization plans for key streets (Lincoln Road, Washington Avenue, and Ocean Drive) in the past decade, no neighborhood-wide plan has been developed since the Deco District Plan written 13 years ago—well before the boom. The new neighborhood plan would emphasize housing opportunities and needs but would also address schools, economic development and employment, community safety, human services, urban design, and other quality-of-life issues. Around the country, community planning has been used successfully to trigger and direct collaborative efforts around pressing needs and opportunities, but two caveats are in order:

a. **Ensure a community-driven plan.** This means "bottom up" in the current jargon, but that phrase is often used loosely. There are concrete ways to promote community ownership of planning processes—relying on players perceived as legitimate by a wide variety of constituencies is key. So is finding the right *planner*—a good facilitator, consensus-builder, and creative mind—and involving residents throughout the planning in defining the parameters and objectives of the process, proposing alternatives, discussing trade-offs, and approving final proposals. The important distinction is that community planning is a *community process* that government is invited to participate in—as a resource, technical assistant, and implementor—not the other way around.

b. **Do not use planning to postpone "doing."** It is not only possible but preferable to plan and do at once—e.g., to hold the affordable housing charrette this summer (perhaps in a first phase to complement MBHA's participatory fall housing workshop), to pursue sites suitable for housing over the storefront, and to enact streamlining measures to facilitate development. These "win-win" opportunities may be lost if action is not taken quickly.

13. **Focus federal Community Development Block Grant (CDBG) monies on very low-income households, rather than moderate-income households, and ensure the long-term affordability of units.** The City's Comprehensive Plan does not indicate a shortfall in the number of housing units affordable to moderate-income families comparable to that found for very low-income families (3,178 units citywide). In addition, the rental properties rehabilitated with CDBG funds were returned to market-rate rents within 3-4 years; that is, the requirement that the units be affordable to lower-income families expired after 3-4 years. The City should seek federal waivers, if necessary, to ensure a minimum of 10-15 years in the expiring use clause. Given the enormous effort that goes into most affordable housing developments, a 3-4 year turnover only defers the crisis a few years for most families. Longer expiring use would help families become significantly more self-sufficient, seek training and better jobs, find quality childcare and stay involved in local schools, etc.

B. Miami Beach Housing Authority (MBHA)

MBHA is to be credited for its recent activism on behalf of very low-income South Beach families. It has added a human services department and secured an agreement from the City to share the costs of relocation assistance for displaced families. In its first significant move as a developer of housing, MBHA has proposed an innovative, residential resource center with on-site child care for women and their children—child care to be staffed by community residents. Emergency assistance to families at direct risk of homelessness is critical, but as longer-term responses to the housing crisis evolve, MBHA can help as a *developer* of affordable housing, as a *financer* for other developers, and as a *source* of project-based Section 8 vouchers—a key ingredient in the financial viability of housing built to serve very low-income families. It is also noteworthy that the agency has an operating surplus of approximately \$10 million and the authority to issue tax-exempt bonds to finance affordable housing. These are hints that MBHA's optimal role in the short-term may be that of financer and limited partner, given its lack of experience in housing development.

1. **MBHA should make the development of housing for very low-income families a high priority.** MBHA works to address a range of housing needs—those of the elderly, the disabled, families with children, and others. But families with children are the bedrock of any community, and children are the key to its future. New housing development should focus on their needs.
2. **MBHA should commit a portion of its multi-million dollar surplus to finance projects by other developers or to enter into joint ventures.** MBDC has used the latter strategy to compensate for its lack of experience in affordable housing development, and MBHA could do so successfully as well.
3. **MBHA should continue to seek an increase in the number of Section 8 vouchers allocated to Miami Beach and any waivers needed to allocate a greater number of vouchers to projects for very low-income families.** The federal government (see below) should expand the allotment of vouchers, given the area's acute displacement problem, and should allow MBHA greater flexibility in the allocation of project-based vouchers. Given the Clinton Administration's emphasis on preventive approaches to homelessness, and to the special needs of children and families, federal officials—in particular, the HUD Office of Special Actions—should be receptive. In addition, residents and community leaders can work with MBHA to secure support from South Beach's congressional representative.

C. Miami Beach Development Corporation (MBDC)

Founded in 1981, MBDC figures prominently in the revitalization and preservation of South Beach over the past decade. It has orchestrated important public-private partnerships and exercised the leadership needed to bring about change. In a very real sense, the agency's reputation gives it *political capital*—a critical complement to the funding it raises for projects. In

addition, as explained in the CHAS, MBDC is the City's designated community-based housing development organization (CHODO). But while the agency *can* play an important role in addressing the area's housing needs, it has not yet done so, and key opportunities have no doubt been lost. MBDC is relatively new to housing development and is undergoing transition. With revitalization of South Beach's key commercial streetfronts essentially complete, major new commercial projects are likely to be few. On the other hand, South Beach faces a serious housing crisis, and as discussed in a recent *Herald* article, the area's success as a tourist mecca and investor magnet is so great that residents of all incomes are being priced out of the market—in stores as well as housing. MBDC is therefore at a crossroads, along with its community, and real estate speculators are able to move more quickly on properties MBDC might develop. To its credit, the agency has retained a consultant to conduct strategic planning for its housing program. *It should make housing for very low-income families a higher priority and should significantly enhance its capacity as a housing developer.*

1. **Emphasize rental housing for very low-income families in all new housing development, acquisition, and rehabilitation projects.** These families are at risk of homelessness, their children attend the area's schools, and the City lacks some 3,200 units to serve them. Homeownership would be a boon to these families and to the community, but in the near term, most are unlikely to meet the income requirements of ownership projects. MBDC should look to generate a *substantial rental portfolio*, involving R.A.I.N. and the Healthy Learners Consortium to ensure social service and child care support. MBDC should also target the long-term conversion of rental units to ownership. Such conversion would clearly depend on the availability of financing at the appropriate latter stage.
2. **To support the focus on family rental housing and ensure its community base at a key transition stage, MBDC should add R.A.I.N.makers to its board of directors and should give residents a majority on its Affordable Housing Committee.** Only one member of R.A.I.N. is a board member now, and resident representation is low overall.
3. **MBDC should hire an experienced affordable housing specialist as soon as possible.** As mentioned above, the agency lacks a track record of housing production. The complexity of designing project funding proposals and applying for financing, the permitting and other requirements of local government, the politics of siting and occupancy, and the evolving nature of the field make it essential that MBDC have an experienced staff member dedicated to housing development and planning. Given the composition of this community, this staff member should be bilingual. Other CDCs in the Greater Miami area should be enlisted to refer promising candidates for the position, and MBDC should utilize the low-cost national electronic networks now serving housing and community development professionals to cast the net wider.
4. **MBDC can also enhance its capacity to produce needed housing by strengthening its relationship to the Local Initiatives Support Corporation (LISC).** LISC is a housing finance intermediary, working with

local governments, private investors, and community-based developers like MBDC to create affordable housing nationwide. LISC is highly regarded as an experienced, results-oriented catalyst. It understands city agencies as well as nonprofits, and its special strength, tax credit financing, is increasingly important as a source of funds for nonprofit rental housing development. As such, LISC represents an important source of *financing* and *technical assistance* for MBDC-led projects.

5. **MBDC should conduct a housing survey and hold focus groups to create a profile of housing needs, conditions, and preferences in South Beach.** This would provide a more up-to-date and detailed look at families and housing than the 1990 Census on which much of the CHAS is based. It should use a sample that is randomly chosen and stratified by income level and family composition, unlike the R.A.I.N. housing survey. The rich information generated by such a survey would not only support the MBDC's planning and priority-setting; it would also serve as *documentation* to make MBDC more competitive for public and private funds. Ideally, the survey would be conducted as part of the neighborhood planning process proposed above. This would facilitate fundraising for the survey, enhance the planning process, and allow MBDC to survey a variety of quality-of-life issues beyond housing. South Beach is changing; a good, random-sample survey would be a powerful tool for documenting that change and tracing its implications.
6. **MBDC should play a lead role in the *affordable housing charette* and *neighborhood planning process*.** As the designated CHODO, the agency should allocate staff and other resources to these projects. Concerted action to recruit more R.A.I.N. members to its board and Affordable Housing Committee would also strengthen MBDC's role in community planning.
7. **Set a target for the number of rental housing units to be developed by MBDC December of 1996.** MBDC needs an agency target to direct its own energies, just as the community as a whole needs a target. The target figure should include joint venture projects.
8. **MBDC should play a lead role in organizing advocacy for affordable housing in South Pointe.** As discussed above, the area's vacant land, renowned elementary school, and considerable amenities make it an ideal magnet for residents of a mixed-income community—as well as one of the "final frontiers" of new housing opportunity on South Beach. MBDC should help lead a collaborative advocacy effort to: (a) make affordable housing a key element of the South Pointe Redevelopment Plan; and (b) secure inclusionary zoning or other incentives for mixed-income development of the area.

D. Metro-Dade County

- **Modify the Documentary Surtax Program** to create a "fair share" formula and to allow localities greater flexibility in the allocation of funds between rental and ownership housing developments. (See City of Miami Beach, item #6, above)

E. U.S. Department of Housing and Urban Development

1. **Expand the allotment of Section 8 vouchers for MBHA.** The City's housing crisis, generated by acute displacement of very low-income and low-income households, calls for greater subsidy through this important channel. If the expansion can be linked to affordable housing development (see #2), new vouchers would be *a direct investment in long-term housing affordability* and not an interim measure to mitigate the bite of soaring rents.
2. **Allow MBHA to award a substantially greater proportion of its vouchers, especially additional vouchers, to projects.** Section 8 vouchers are often the critical element in making projects viable for very low-income families, but at present, MBHA can assign a very limited proportion of its vouchers to projects.

F. R.A.I.N. and Other Community Residents

Created to be a mechanism for empowering very low-income families and connecting them with needed services, R.A.I.N. has become the linchpin of community advocacy on the South Beach housing issue. Indeed, its families live directly in the path of the bull market gentrifying the area. R.A.I.N. is currently working with the Healthy Learners Consortium (see below), a group of service providers which includes MBDC, MBHA, Legal Services of Greater Miami, and others active on the housing issue. In addition, the R.A.I.N.makers are about to incorporate as an independent nonprofit organization, R.A.I.N. has a draft communication strategy to centralize and direct the group's advocacy around the city on the housing issue, and the R.A.I.N.makers have established relationships with key community leaders and interested professionals. The building blocks are in place for more systematic and substantive participation by R.A.I.N. in policymaking and housing development on the Beach.

1. **R.A.I.N. should continue to monitor city council, planning commission, and other actions that impact the needs of families its represents—including, but not limited to, their housing needs.** An active, visible, ongoing presence is critical, and R.A.I.N. should maintain the independence needed to be constructively critical of *all* other organizations on the Beach—even the other housing advocates.
2. **R.A.I.N.makers should seek additional membership on the boards of directors and key working committees of local organizations.** This holds not only for the policy-setting groups of local housing organizations—MBDC and MBHA—but for organizations that play *complementary roles* (Legal Services of Greater Miami) and *indirect roles* (e.g., the Design Preservation League) in the development of housing on South Beach. R.A.I.N.makers who are unfamiliar with nonprofit organizations and "board dynamics" but are nevertheless motivated to serve and encouraged to do so by R.A.I.N. could receive technical assistance from a variety of independent sources.
3. **R.A.I.N. should enhance and formalize its housing needs communication strategy,** seeking local *pro bono* technical assistance as needed. Developing affordable housing is a political as well as technical challenge. By matching key *messages* with the *audiences* that should hear them, a coherent and consistently used communication strategy would help R.A.I.N. address both types of challenge, in part by helping the group work with the media more strategically. Moreover, developing such a strategy would complement the group's move toward greater institutionalization and independence. Finally, the communication strategy would highlight the fact that families who have thus far been disenfranchised by the political process and displaced by the real estate market have not only organized themselves around shared needs but have also arrived at a high degree of consensus on how key organizations should *respond* to those needs. This is the critical next phase.

4. **Beyond enhancing its role as the principal community voice on housing policies and programs in South Beach, R.A.I.N. should become a partner in key projects.** There are many ways to be a partner. Developing and staffing the child care program within MBHA's proposed resource center is one example of acting as the *family support element* of a housing project—a critical addition to the “bricks and mortar” which promotes genuine self-sufficiency for families. Such a role would be a natural outgrowth of R.A.I.N.'s ongoing family support activities at the elementary school. But R.A.I.N. can be more proactive as well. It could request funding to manage the public involvement component of the neighborhood planning process proposed above. The group could involve itself in screening families during the rent-up of new housing—by acting to ensure fair, culturally sensitive occupancy policies on the part of the property manager, for example. Eventually, the group could be a financial partner in housing development or in the cooperative ownership and management of housing units developed by other organizations. Such evolution from advocacy to service provision and then to management and ownership of properties would require careful planning and patient development of the group's capacity, but these steps are well-precedented in the experiences of other community-based groups around the country.

G. The Healthy Learners Consortium

Established to promote a more integrated approach to family self-sufficiency, the Healthy Learners Consortium now attracts a large and enthusiastic group of service providers and residents to its monthly meetings at Feinberg-Fisher. Some of these standing-room-only gatherings bring 80 or more persons who share an interest in the quality of life for families on South Beach. Among the members is **Legal Services of Greater Miami (LSGM)**—not a housing organization but a key advocate and important source of legal assistance for very low-income tenants. LSGM has led the request for an extension of the 15-day eviction notice requirement and supports needed reforms in city policy that would promote mixed-income approaches to affordable housing development. LSGM should build on these initiatives to strengthen its support for *structural* changes in the development trends impacting South Beach—over and above the very important arena of individual landlord-tenant cases. It can do so as a *source of technical assistance* in legal reform and, of course, as a *litigant aid*. LSGM, more than any other organization addressed in this report, confronts the challenge of addressing the near-term emergencies created by displacement without losing sight of the longer-term supply problem which drives that displacement. For this reason, and like MBDC and MBHA, *LSGM should actively involve community residents in its priority and policy-setting*—through board membership, membership on working groups and planning committees, etc.

On the whole, the Healthy Learners Consortium appears to function in *cooperative* and not *collaborative* fashion. That is, members share news and views on important projects and events but not the joint program and planning responsibilities that define collaboratives. This is not only understandable,

given the group's youth and the fragmented, categorical quality of public and philanthropic funding, it may be *desirable*. That is, the Consortium may function best as a gathering point where *sub-groups* with more tightly focused agendas can maintain contact, remain broadly informed, and arrange collaborations with one another that do not directly involve the larger Consortium. The group has already achieved notable successes with this approach. On the other hand, the Consortium enjoys a large and diverse membership given the small scale of the Beach, and it has shown consistent interest in the housing issue. As such, the group may choose to be a more proactive, two-way *communication mechanism*—beyond its role as a "gathering point" or nexus. That is, the Consortium might serve as a channel for shared, non-partisan messages on housing that support the self-sufficiency objectives of R.A.I.N. and the Healthy Learners Project and as a source of feedback on those messages—a set of eyes and ears around the city that is at once informed and committed. Specifically, the Consortium should:

1. **Monitor the efforts of the City, MBDC, and MBHA, and advocate the steps outlined in this report as part of a comprehensive approach to the housing crisis on South Beach.** Consortium members can help ensure that affordable housing *for very low-income families*, as opposed to "affordable housing" more generally, remains high on the public agenda. Members should be on the mailing list for planning commission events, should encourage accurate *and* regular media coverage of the crisis, etc.
2. **Shape the way that affordable housing—in particular, rental housing for very low-income families—is talked about around the city.** In a 1992 study conducted by FIU, 70% of local elected officials and planning department directors in Florida said that "concern for property values" is a strong barrier to affordable housing development in their localities; a smaller percentage said that "concerns for safety" and "opposition to integration" are also barriers. Like all cities, Miami Beach is home to a variety of constituencies, each with somewhat distinct interests, collective experiences, and beliefs. By connecting R.A.I.N. and other housing advocates to these constituencies in formal and informal ways, Consortium members can play a vital and substantial role in the *public education* that successful affordable housing development requires. In particular, the city-at-large—over and above city government—must hear that:
 - (a) **The housing affordability problem on South Beach is a crisis** (in scale and rate of displacement), and the sense of urgency should be echoed widely and regularly.
 - (b) **Being in favor of housing affordability is not "anti-development,"** since cities have *guided* the development process for many years—to limit social costs and create enduring benefits. Such guidance is simply a part of far-sighted and human-scaled "planned growth"—a key tenet of city and state policy.

(c) **Affordable housing development for very low-income families is "preventive medicine" for urban areas**, since it represents homelessness prevention and is a key element of family self-sufficiency. Experience shows that like quality education, affordable housing is a *prudent public investment*—far less expensive than frequent crisis intervention in the near-term or crime, incarceration, and substance abuse treatment in the long term.

(d) **Far from being "special interest ghettos," mixed-income communities create multiple benefits in the long run**, since a wider array of housing types makes them more resilient in the face of housing market fluctuations than cities with a base of luxury condominiums ("one-legged stools") and because entry-level jobs can more readily be filled by people living in the community, cutting commute time, traffic congestion, auto pollution, and parking demand;

(e) **Affordable housing is not "poor housing" that scares away investment or retards property values**. Needed housing can be designed and managed to fit the existing scale and character of the area—can be integrated effectively, even aesthetically, into the mixed-use "village" character of South Beach. Moreover, years of empirical evidence—study after study—suggests strongly that affordable housing does not have the negative property value impacts that some homeowners, developers, and public officials expect.

(f) **Miami Beach should contribute its "fair share" of housing for very low-income families**. The scarcity of affordable housing for low-income workers, who fill an important niche in the area's service-sector economy, is a *regional* problem, and Miami Beach, with its strong real estate market, should contribute a fair share of units for these families.⁶

⁶ The region's affordable housing needs are analyzed in reports by the South Florida Regional Planning Council, and the principles and practices underlying the fair share approach are well-developed in New Jersey's statewide affordable housing program.

CITY OF MIAMI BEACH
NOTICE OF SPECIAL MEETING
NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY given that during a Special City Commission meeting, public hearings will be held by the City Commission of the City of Miami Beach, Florida, in the Commission Chambers, City Hall, 1700 Convention Center Drive, Miami Beach, Thursday, July 28, 1994, at the times listed below, to consider adopting the following described ordinances:

at 9:00 a.m.:

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 25, ENTITLED "OFFENSES-MISCELLANEOUS", AMENDING SECTION 25-28.4, ENTITLED "AEROSOL SPRAY PAINT AND BROAD-TIPPED INDELIBLE MARKERS-PROHIBITED SALE TO MINORS" BY REQUIRING DISPLAY OF A SIGN PROHIBITING SUCH SALE, REQUIRING STORAGE OF SUCH AEROSOL SPRAY PAINT OR MARKER PENS WHERE NOT READILY ACCESSIBLE TO MINORS, PROVIDING FOR ENFORCEMENT, CIVIL FINES FOR VIOLATIONS, APPEALS AND COLLECTION OF FINES; PROVIDING FOR INJUNCTIONS FORBIDDING SPRAY PAINT AND MARKER SALES IN STORES, HAVING THREE VIOLATIONS WITHIN ONE CALENDAR YEAR; PROVIDING FOR A REPEALER, SEVERABILITY AND AN EFFECTIVE DATE.

at 9:20 a.m.:

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING ORDINANCE NO. 1605, WHICH ESTABLISHED POSITIONS IN THE UNCLASSIFIED SERVICE AND STEPS FOR SALARIES FOR UNCLASSIFIED EMPLOYEES, BY PROVIDING THAT SALARIES FOR ALL EMPLOYEES IN THE OFFICE OF THE CITY ATTORNEY SHALL HAVE RANGES SET BY THE CITY ATTORNEY AND APPROVED BY THE MAYOR AND CITY COMMISSION; PROVIDING FOR REPEALER, SEVERABILITY AND AN EFFECTIVE DATE.

INQUIRIES concerning these items should be directed to the Legal Department at 673-7470.

at 9:45 a.m.:

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING COMPREHENSIVE ZONING ORDINANCE NO. 89-2665, AMENDING SECTION 7, ENTITLED "PARKING REGULATIONS", AMENDING SUBSECTION 7-2, ENTITLED "OFF-STREET PARKING REQUIRED" BY MODIFYING THE PARKING REQUIREMENT FOR SUITES HOTEL UNITS; PROVIDING FOR INCLUSION IN THE ZONING ORDINANCE; PROVIDING FOR REPEALER, SEVERABILITY AND AN EFFECTIVE DATE.

INQUIRIES concerning this item should be directed to the Development, Design & Historic Preservation Services Department at 673-7193.

at 10:00 a.m.:

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 20, ENTITLED "BUSINESS LICENSES", AMENDING SECTION 20-32, ENTITLED "PARKING LOT; EXEMPTIONS, APPLICABILITY; VALET PARKING" BY PROVIDING FOR LEASE OF PARKING SPACES ON PUBLIC PROPERTY TO VALET PARKING OPERATIONS AND ESTABLISHING RENTAL FEES; REQUIRING VALET PARKING OPERATIONS WHICH UTILIZE SPACES ON PUBLIC PROPERTY TO OBTAIN A PERMIT FOR EACH LOCATION UTILIZED; ESTABLISHING STANDARDS FOR THE OPERATION OF VALET SERVICE ON CITY PROPERTY, AND REQUIRING VALET PARKING OPERATIONS WHICH LEASE PUBLIC PARKING SPACES TO ADHERE TO RULES AND REQUIREMENTS; PROVIDING FOR ENFORCEMENT OF PENALTIES FOR VIOLATORS; PROVIDING FOR A REPEALER, SEVERABILITY AND AN EFFECTIVE DATE.

INQUIRIES concerning this item should be directed to the City Manager's Office at 673-7010.

AGENDA
ITEM

R-3-E-1

DATE

7-28-94

at 10:15 a.m.:

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 17A, ENTITLED "RENTAL HOUSING" BY ADDING ARTICLE III THEREOF ENTITLED "TERMINATION OF TENANCY WITHOUT SPECIFIC TERM", BY PROVIDING THAT RESIDENTIAL TENANCIES WITHOUT A SPECIFIC DURATION IN WHICH THE RENT IS PAYABLE ON A MONTHLY BASIS MAY BE TERMINATED BY EITHER PARTY GIVING NOT LESS THAN THIRTY (30) DAYS' WRITTEN NOTICE PRIOR TO THE END OF ANY MONTHLY PERIOD, AND EXCEPT FOR THE NOTICE PROVISIONS SET FORTH HEREIN, PROVIDING FOR THE APPLICABILITY OF PART II, CHAPTER 83, FLORIDA STATUTES, GOVERNING "RESIDENTIAL TENANCIES" TO THE RENTAL OF RESIDENTIAL DWELLING UNITS IN MIAMI BEACH; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

INQUIRIES concerning this item should be directed to the Development, Design & Historic Preservation Services Department at 673-7193.

ALL INTERESTED PARTIES are invited to appear at this meeting or be represented by an agent, or to express their views in writing addressed to the City Commission c/o City Clerk's Office, 1700 Convention Center Drive, 3rd Floor, City Hall, Miami Beach, Florida, 33139. Copies of proposed ordinances are available for public inspection during normal business hours in the Office of the City Clerk, 3rd Floor, City Hall.

Richard E. Brown, City Clerk
City of Miami Beach

"Pursuant to Fla. Stat. 286.0105, the City hereby advises the public that: If a person decides to appeal any decision made by this board, agency or commission with respect to any matter considered at its meeting or hearing, he will need a record of the proceedings, and that for such purpose, affected persons may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law."