

Condensed Title:

An ordinance implementing the Ad Valorem Tax Deferral for certain affordable rental housing properties, authorized by Florida Statutes.

Key Intended Outcome Supported:

Improve Access to Workforce or Affordable Housing.

Supporting Data (Surveys, Environmental Scan, etc.): 30% of residents feel that the most important area for Miami Beach to spend tax dollars on is Housing.

Issue:

Shall the Mayor and City Commission approve the ordinance on first reading?

Item Summary/Recommendation:

During the 2007 legislative session, the Florida Legislature adopted House Bill 1375. Included in this large housing bill was the creation of a local-option property tax deferral program for affordable housing properties. The authorization of this program was a legislative priority of the City of Miami Beach.

The Administration recommends approval of the attached ordinance, which implements this program in Miami Beach. This ordinance is applicable citywide, and allows for a qualifying property to defer a portion of the increase of their ad valorem tax. The base year is defined as the tax year ending December 31, 2008. The term 'adjusted base year' is defined in the ordinance as the increase in value that is the lesser of five (5) percent per year, or, the actual increase. The amount of the deferral shall be the full value of ad valorem taxes, minus the amount that would be due based upon the property appraiser's adjusted base year.

Property owners apply to the county tax collector for the deferral. Tax deferrals may not be granted if the amount of taxes deferred and the total amount of any outstanding liens on the property exceed 85 percent of the property's assessed value, or if the primary financing for the property is in an amount that exceeds 70 percent of the assessed value of the property.

Advisory Board Recommendation:

Finance and Citywide Projects Committee, November 18, 2008
 The Committee directed the Administration to place the ordinance for first reading on the agenda for the December 10, 2008 City Commission meeting, and to return to the Committee between first and second reading to present an estimate of the potential fiscal impact of the ordinance

Financial Information:

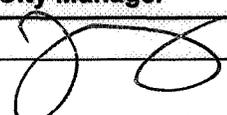
Source of Funds:	Amount	Account	Approved
<div style="border: 1px solid black; padding: 5px; width: fit-content;">N/A</div> OBPI	1		
	2		
	3		
	4		
	Total		

Financial Impact Summary: The Administration calculated the potential fiscal impact with two separate assumptions. The first estimates the maximum deferral value, and assumes that all identified units apply for the tax deferral, and do not sell or change their use for a period of thirty years. Since it is unrealistic to assume that all 2,653 units will still be eligible for the deferral after 30 years, the Administration also calculated the impact of the ordinance as units are removed from the deferral program over the course of thirty years. This is the estimated deferral value. The Administration projects that the Estimated Deferral Value over thirty years is \$16.4 million, and that the Maximum Deferral Value over thirty years is \$112 million.

City Clerk's Office Legislative Tracking:

Kevin Crowder, City Manager's Office

Sign-Offs:

Department Director	Assistant City Manager	City Manager
KC 	HF/KGB	JMG 

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MIAMIBEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: December 10, 2008

FIRST READING

SUBJECT: **ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 102 OF THE CITY CODE BY CREATING ARTICLE VI, "AD VALOREM TAX DEFERRALS FOR CERTAIN AFFORDABLE RENTAL HOUSING PROPERTIES", PROVIDING FOR AND AUTHORIZING THE DEFERRAL OF A PORTION OF AD VALOREM TAX FOR PROPERTIES USED FOR AFFORDABLE RENTAL HOUSING PURPOSES; PROVIDING FOR SEVERABILITY, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.**

ADMINISTRATION RECOMMENDATION

Adopt the Ordinance on First Reading.

BACKGROUND

During the 2007 legislative session, the Florida Legislature adopted House Bill 1375. Included in this large housing bill was the creation of a local-option property tax deferral program for affordable housing properties. The authorization of this program was a legislative priority of the City of Miami Beach.

Under the affordable housing deferral program, the board of county commissioners of any county, or the governing authority of any city, can adopt an ordinance to allow for ad valorem tax deferrals if the owners of the property are engaging in the operation, rehabilitation, or renovation of the property as affordable rental housing. The ordinance must specify the percent or amount of the tax deferral and must specify that the deferral is only for taxes levied by the unit of government granting the deferral.

The ordinance must specify the following:

- The percentage or amount of the deferral and the type and location of the affordable housing rental property.
- The deferral applies only to ad valorem taxes and non-ad valorem assessments levied by the unit of government granting the deferral. Deferrals may not be granted to taxes and assessments levied for the payment of bonds or taxes authorized by a vote of the electors.
- The deferral remains in effect for the period for which it is granted regardless of any change in the authority of the county or municipality to grant the deferral.
- The use of the property as affordable rental housing must be maintained over the deferral period.

In order to be eligible, rental units in eligible properties must:

- rent for an amount that does not exceed 30 percent of the median adjusted gross annual income (AMI), as defined in s. 420.0004, F.S.; and
- are occupied by extremely-low (30% AMI), very-low (50% AMI), low (80% AMI), or moderate (120% AMI) income persons.

ANALYSIS

The attached ordinance implements this program in the City of Miami Beach. This ordinance is applicable citywide, and allows for a qualifying property to defer a portion of the increase of their ad valorem tax as follows:

The base year is defined as the tax year ending December 31, 2008. The term ‘adjusted base year’ is defined in the ordinance as the increase in value that is the lesser of five (5) percent per year, or, the actual increase. The amount of the deferral shall be the full value of ad valorem taxes, minus the amount that would be due based upon the property appraiser’s adjusted base year.

	<u>Example #1</u>	<u>Example #2</u>	<u>Example #3</u>
2007 Tax Year Value	\$2,000,000	\$2,000,000	\$2,000,000
2008 Tax Year Value	\$2,200,000	\$2,160,000	\$2,075,000
2007-2008 Increase	10%	8.00%	3.75%
Taxable Value Deferred	\$100,000	\$60,000	\$0
2008 Adjusted Base Year	\$2,100,000	\$2,100,000	\$2,075,000
Taxes Deferred	\$566	\$340	\$0

Property owners apply to the county tax collector for the deferral. Approval of the application defers that portion of the taxes which are authorized by the ordinance. Tax deferrals may not be granted if the amount of taxes deferred and the total amount of any outstanding liens on the property exceed 85 percent of the property’s assessed value, or if the primary financing for the property is in an amount that exceeds 70 percent of the assessed value of the property. Application requirements are provided, as are requirements regarding change in use or ownership of the property, and penalties are established for persons who intentionally file false information relating to the tax deferral.

Section 197.3075, F.S. requires that under a change in ownership or use of the property for which a deferral for affordable rental housing has been obtained, or if the owner of the property fails to maintain required insurance coverage, the total amount of deferred ad valorem taxes and non-ad valorem assessments, and accrued interest, is due and payable by November 1. A property appraiser must notify the tax collector in writing when a change in ownership or a change in use is discovered by the appraiser.

During any year in which the total amount of deferred taxes and assessments, interest, and/or other unsatisfied liens on the property exceeds 85 percent of the assessed value of the property, the property owner must pay that portion of taxes, assessments, and interest which exceeds 85 percent of assessed value within 30 days of receiving written notice from the tax collector. If on or before June 1 following the date deferred taxes become delinquent, the tax collector is required to sell a tax certificate for the delinquent taxes and interest under s. 197.432, F.S.

Any property owner in a jurisdiction that has adopted an ad valorem tax-deferral ordinance and who owns an eligible affordable rental housing property may apply for a

deferral of payment by filing an annual application for deferral with the County tax collector on or before January 31 following the year in which the taxes and non-ad valorem assessments are assessed. The property owner has the burden to affirmatively demonstrate compliance with the eligibility requirements of the program.

On November 18, 2008, the Finance and Citywide Project Committee discussed the proposed Ordinance. The Committee directed the Administration to place the ordinance for first reading on the agenda for the December 10, 2008 City Commission meeting, and to return to the Committee between first and second reading to present an estimate of the potential fiscal impact of the ordinance.

Fiscal Impact Estimate

In order to determine the potential fiscal impact to the City, the Administration utilized the following assumptions.

- Through a review of the City's property tax roll, the Administration reviewed property characteristics and identified approximately 2,653 rental apartments that have estimated rents that may qualify for the tax deferral program.
- The Florida Constitution limits increases in the assessed value of non-homestead property to no more than 10%. For purposes of the fiscal impact, the Administration assumed an annual growth rate of this 10% maximum in the assessed value for each unit.
- The authorizing statute provides that the deferred taxes accrue interest at the rate of 3% plus CPI, not to exceed 9.5%. For purposes of the fiscal impact, the Administration used an interest rate of 5.74%.
- The fiscal impact estimates assume the 2008 millage rates for all years (millage rates may change in accordance with state law).
- The median rent for the units identified as eligible for the deferral is estimated to be \$655 per month.
- The Administration calculated the potential fiscal impact with two separate assumptions.
 - The first estimates the maximum deferral value, and assumes that all identified units apply for the tax deferral, and do not sell or change their use for a period of thirty years.
 - Since it is unrealistic to assume that all 2,653 units will still be eligible for the deferral after 30 years, the Administration also calculated the impact of the ordinance as units are removed from the deferral program over the course of thirty years, assuming that all properties will eventually turn over at least once during this period. This is the estimated deferral value.

Including accrual of 3% interest on deferred ad valorem taxes, the total cumulative value (fiscal impact) of deferred City of Miami Beach taxes is estimated as follows:

	<u>Year 10</u>	<u>Year 20</u>	<u>Year 30</u>
Estimated Deferral Value	\$3,008,874	\$11,792,674	\$24,879,172
Maximum Value Deferred	\$4,588,839	\$32,931,009	\$139,644,856

Monthly Rent Savings Estimate

	<u>Year 10</u>	<u>Year 20</u>	<u>Year 30</u>
No Deferral*	\$770	\$1,090	\$1,918
With Deferral	\$742	\$979	\$1,582
Rent Savings**	4%	10%	18%

If Miami-Dade County also implemented this program, the potential impact on rent savings is as follows:

	<u>Year 10</u>	<u>Year 20</u>	<u>Year 30</u>
No Deferral	\$770	\$1,090	\$1,918
With Deferral	\$718	\$885	\$1,295
Rent Savings**	7%	19%	32%

*The estimates of monthly rent reflect the growth over time that would be solely based on increases in ad valorem taxes. These rental rate estimates do not include rental rate growth influences such as insurance, utilities, property maintenance, and profit, etc.

**Rent Savings estimates assume that all savings associated with the tax deferral program are passed through to the tenant.

CONCLUSION

The Administration recommends that the Mayor and City Commission approve the Ordinance on first reading. The City further recommends that the Mayor and City Commission urge Miami-Dade County to also implement the tax deferral program.

JMG/HF/KG/akc

ORDINANCE NO. _____

ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 102 OF THE CITY CODE BY CREATING ARTICLE VI, "AD VALOREM TAX DEFERRALS FOR CERTAIN AFFORDABLE RENTAL HOUSING PROPERTIES", PROVIDING FOR AND AUTHORIZING THE DEFERRAL OF A PORTION OF AD VALOREM TAX FOR PROPERTIES USED FOR AFFORDABLE RENTAL HOUSING PURPOSES; PROVIDING FOR SEVERABILITY, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, in May, 2007, the Florida Legislature adopted House Bill 1375, to allow counties and municipalities to adopt an ordinance to allow for ad valorem tax deferrals on affordable rental housing if the owners are engaging in the operation, rehabilitation, or renovation of such properties in accordance with State Statute; and

WHEREAS, House Bill 1375 was codified as Section 197.307 of the Florida Statutes; and

WHEREAS, Section 197.307 establishes that municipalities may provide for the deferral of ad valorem taxes on affordable rental housing; and

WHEREAS, Section 197.307 requires that the municipality designate the percentage or amount of the deferral and the type and location of affordable rental housing property for which a deferral may be granted; and

WHEREAS, pursuant to Section 197.307, such method of assessment shall be used only to defer a portion of the taxes owed to the jurisdiction adopting such a method.

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

SECTION 1. Chapter 102, "Taxation" of the City Code is hereby amended by creating new Article VI, "Ad Valorem Tax Deferrals of Certain Affordable Rental Housing Properties," including new Sections 102-401 through 102-406, as follows:

CHAPTER 102 TAXATION

* * *

ARTICLE VI. AD VALOREM TAX DEFERRALS FOR CERTAIN AFFORDABLE RENTAL HOUSING PROPERTIES

Sec. 102-401. Tax deferral granted.

Pursuant to Section 197.307, Florida Statutes, an ad valorem tax deferral for affordable rental housing is hereby authorized within the locations and geographic areas of the City

of Miami Beach described in section 102-402 and up to the amounts provided in section 102-403 of this Article.

Sec. 102-402. Designation of location, geographic area of the county, and type of properties eligible for the tax deferral provided herein.

Due to the need for affordable rental housing in Miami Beach, it is hereby found and determined that all affordable housing properties in which the owners are engaging in the operation, rehabilitation, or renovation of such properties in accordance with the guidelines provided in Part VI of Chapter 420, Florida Statutes, and which meet the eligibility criteria in Section 197.3071, Florida Statutes, are eligible for ad valorem tax deferrals provided in this Article.

Sec. 102-403. Amount of deferral.

(a) As used in this Section, the following terms shall have the meaning set forth below:

(1) *Base year* means the property appraiser's value of the parcel of real property for the tax year ending on December 31, 2008.

(2) *Adjusted base year* means an increase in value on the parcel of real property in each year since the base year in the lesser of an amount equal to five (5) per cent per year or the actual increase.

(b) The amount of the deferral shall be up to the full value (100%) of ad valorem taxes that would otherwise be due to the City of Miami Beach, minus the amount that would be due based upon the property appraiser's adjusted base year, not to exceed the maximum allowed by Chapter 197, Florida Statutes, and subject to the limitations and exclusions in Chapter 197, Florida Statutes (such as but not limited to excluding taxes authorized by vote of the electors).

Sec. 102-404. Applicability and limitation.

The deferral provided pursuant to this Article shall apply only to ad valorem taxes levied by the City of Miami Beach. The deferral granted pursuant to this Article shall remain in effect regardless of any change in the authority of the City of Miami Beach to grant the deferral as long as the use and ownership of the property as affordable rental housing are maintained over the period for which the deferral is granted, as provided by this Article and the applicable statutes.

Sec. 102-405. Providing for interpretation.

It is the intent of the Mayor and City Commission of the City of Miami Beach that this article be interpreted broadly to effectuate the purpose provided herein.

Sec. 102-406. Information to applicants.

The Miami-Dade County Tax Collector is requested to provide clear, written notice to property owners seeking the tax deferral provided in this Article that all taxes and interest are due and payable at the time the property is sold or the use changes and when possible retain a record signed by the owner showing that the owner has been so advised, and provide to owners such additional information as is required by Chapter 197, Florida Statutes.

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. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

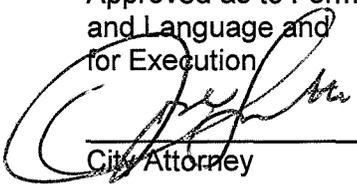
PASSED and ADOPTED this _____ day of _____, 2008.

ATTEST:

MAYOR

CITY CLERK

Approved as to Form
and Language and
for Execution



City Attorney

12/1/08

Dated