

**Condensed Title:**

A Resolution accepting the recommendations of the Affordable Housing Advisory Committee and referring same to Land Use & Development Committee.

**Key Intended Outcome Supported:**

Increase access to workforce or affordable housing.

**Supporting Data (Surveys, Environmental Scan, etc.):** Based on the 2007 Customer Satisfaction Survey, affordable housing was a concern for 82% of those surveyed.

**Issue:**

Shall the City Commission accept the recommendations report from the Affordable Housing Advisory Committee in order for the City to timely comply with FS 420.9076?

**Item Summary/Recommendation:**

In 2007, the Florida Legislature passed Housing Bill 1375 requiring cities and counties receiving State Housing Initiatives Partnership (SHIP) program funds to appoint an affordable housing advisory committee to review the City's established policies and procedures, ordinances, land development regulations, and adopted local Comprehensive Plan in order to recommend actions or initiatives to encourage or facilitate affordable housing, while protecting the ability of the property to appreciate in value.

On July 16, 2008, the Mayor and City Commission established the Affordable Housing Advisory Committee (AHAC) through Resolution No. 2008-26838. The AHAC held four public meetings from August through November, and approved the various recommendations at a public meeting held on November 18, 2008. The City is required by Florida Statute to receive the report from the AHAC by December 31, 2008, and to adopt the recommendations, if any, by amending the City's Local Housing Assistance Plan within ninety (90) days from its receipt of the report. The Statute further provides that if the City fails to submit timely its approved amended LHAP, then the Florida Housing Finance Corporation shall send to the City a notice of termination of SHIP funding .

In order for the City to timely comply with statutory timeframes and to continue to be eligible to receive SHIP funding, the Administration recommends that the Mayor and the City Commission accept the AHAC recommendations report and refer same to Land Use & Development Committee for assessment and recommendation to the Commission.

**Advisory Board Recommendation:**

N/A

**Financial Information:**


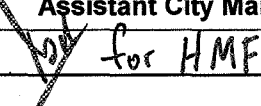
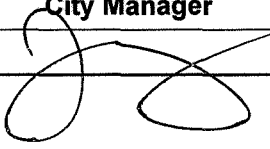
Source of Funds:		Amount	Account
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	2		
	3		
	<b>Total</b>		

**Financial Impact Summary:**

**City Clerk's Office Legislative Tracking:**

Anna Parekh

**Sign-Offs:**

Department Director	Assistant City Manager	City Manager
	 for HMF	





# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://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

SUBJECT: **A RESOLUTION OF THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATIONS REPORT FROM THE AFFORDABLE HOUSING ADVISORY COMMITTEE AND REFERRING SAME TO THE LAND USE & DEVELOPMENT COMMITTEE FOR DISCUSSION AND IMPLEMENTATION CONSIDERATIONS.**

### ADMINISTRATION RECOMMENDATION

Adopt the resolution.

### BACKGROUND

In 1992, the William E. Sadowski Affordable Housing Act established the State Housing Initiatives Partnership (SHIP) Program, administered by the Florida Housing Finance Corporation (FHFC), which provides funding for rehabilitation of housing stock and homeownership opportunities for low and moderate income households. In 1995, The City Commission approved Ordinance 95-2989, establishing the legal infrastructure in order for the City to be eligible to receive SHIP Program funds, which are derived from set-aside allocations from documentary stamp levies on real estate transactions.

In 2007, the Florida Legislature passed Housing Bill 1375 (F.S. 420.9076), requiring cities and counties receiving SHIP funds to appoint an eleven member affordable housing advisory committee (AHAC). The Statute requires that every three (3) years, the AHAC review the City's established policies and procedures, ordinances, land development regulations, and adopted local Comprehensive Plan to recommend actions or initiatives to encourage or facilitate affordable housing, while protecting the ability of the property to appreciate in value.

The AHAC recommendations must include a review of various incentives provided in the Statute. These statutory incentives include:

- (a) The processing of expedited permits or development orders to a greater degree than other projects for affordable housing;
- (b) The modification of impact-fee requirements, including reduction or waiver of fees and alternative methods of fee payment for affordable housing;
- (c) The allowance of flexibility in densities for affordable housing;
- (d) The reservation of infrastructure capacity for housing for very-low-income persons, low-income persons, and moderate-income persons;
- (e) The allowance of affordable accessory residential units in residential zoning districts;
- (f) The reduction of parking and setback requirements for affordable housing;
- (g) The allowance of flexible lot configurations, including zero-lot line configurations for

- affordable housing;
- (h) The modification of street requirements for affordable housing;
- (i) The establishment of a process by which a local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing;
- (j) The preparation of a printed inventory of locally owned public lands suitable for affordable housing;
- (k) The support of development near transportation hubs and major employment centers and mixed-use developments.

On July 16, 2008, the Mayor and City Commission established the City's Affordable Housing Advisory Committee (Resolution No. 2008-26838), in furtherance of F.S. 420.9076. The AHAC held four (4) public meetings during the months of August, September, October and November, and approved the attached recommendations report during a duly advertised public hearing held on November 18, 2008.

Rule 67-37.010, Florida Administrative Code, which provides further direction on how FS 420.9076 is to be followed, became effective on February 21, 2008. This Code requires that within 90 days after the date of its receipt of AHAC's report, the local governing body must adopt, if any, amendments to its Local Housing Assistance Plan (LHAP), incorporating the incentive strategies identified by AHAC. The amended LHAP must be submitted to the Florida Housing Finance Corporation (FHFC) by May 2, 2009. This process must be repeated every three (3) years. The Code further provides that if the City fails to submit timely its approved amended LHAP, then the FHFC shall send to the City a notice of termination of its SHIP funding.

The Administration is requesting that the Commission receive the attached recommendation report to meet the deadlines established by State Statute, and further requests that the Commission refer the report to the Land Use & Development Committee so that the recommendations by the AHAC may be evaluated in greater detail for implementation considerations, and then present its findings at the Commission's February meeting. The Land Use Committee may take up the matter at its January 12<sup>th</sup> meeting and present its findings to the Commission at its February meeting. The Commission may at that time decide to accept the recommendations and amend the LHAP.

### **ANALYSIS**

In order for the City to be in compliance with the Florida Statute in a timely manner, the Commission should adopt this Resolution accepting the recommendations report from the AHAC and refer same to the Land Use & Development Committee.

### **CONCLUSION:**

The administration recommends that the Mayor and City Commission of the City of Miami Beach, Florida, receive the attached recommendations report submitted by the Affordable Housing Advisory Committee and refer the report to the Land Use Committee.

JMG/HF/AP



MIAMI BEACH

**City of Miami Beach**

**Affordable Housing Advisory Committee**

Triennial

**Incentives Review and Recommendation Report**

**November 18, 2008**

**Contact Person:**

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and Community Development  
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Miami Beach, Florida 33139  
(305) 673-7260 / FAX: (305) 673-7772**

**City of Miami Beach**  
**Affordable Housing Advisory Committee Recommendations**  
**Triennial Incentive Review and Recommendation Report**  
**November 2008**

**I. Background**

The members of the Affordable Housing Advisory Committee (AHAC) were selected in May and sworn-in at the June 2008 Commission meeting.

There were a total of four AHAC meetings held to discuss incentives and formulate the recommendations report. The dates of these meetings were August 25, September 2, October 2, and November 12, 2008. A duly noticed public hearing was held on November 18, at which time the AHAC's recommendations were presented in this report and approved by a majority of the board. The recommendations report will be presented to the City Commission at their December 10, 2008 meeting.

The AHAC's final recommendations will be referred to the City Commission's Land Use Sub-Committee for discussion. Staff from the City's Housing and Community Development Division will attend the proceedings of the Land Use Sub-Committee to assist in answering questions and inform the committee of its goal of amending the City's Local Housing Assistance Plan and/or City Code, as may be applicable.

The AHAC had a free flow of ideas for the first four meetings before tackling review of the statutory incentives provided for in FS 420.9076. One common theme was the timing problems that arise from multi-layered funding of the typical affordable housing project, including compliance with regulation for rules of affordable housing funding. Some of the City's policies for funding, lien removal, certifications of compliance, etc. compound these timing problems. A second theme, related to the statutory incentives, is that because of the City's character and size, many of the statutory incentives are inappropriate or inapplicable.

**II. Public Meeting:**

For the final meeting, notice was provided in the Miami Herald for the public to attend and to discuss the recommendations. Notice was also posted in City Hall's bulletin boards and the schedule of meetings that the City's posts weekly.

### III. Statutory Recommendations:

*The following represents the summary of the discussions and recommendations related to the incentives provided in Florida Statutes 420.9076(4). During the Committee's coverage of these statutory incentives, the City's Planning Director and Assistant Director were present to explain current code provisions and answer any questions members had related to these incentives and their implications.*

**a. Incentive:** Expediting the processing of approvals of development orders or permits for affordable housing projects to a greater degree than other projects. [420.9076(4)(a)]

**Synopsis of Discussion/Background:** In the past, a system was in place whereby affordable housing projects, along with City of Miami Beach's own projects, were tagged green. Permit inspectors from the various disciplines knew to prioritize the green tagged plans. This AHAC recommended that instead of re-implementing the green tag system, the housing department should create a form, which they would use to certify a project as qualified as affordable and hence qualified for expedited permitting.

**Recommendation – reconfirm 1996 AHAC incentive:** That the City of Miami Beach give priority in scheduling a pre-design Conference with all relevant agencies including but not limited to: Fire, Planning & Zoning, Building, Historic Preservation, Public Works, Americans with Disabilities, and Housing & Community Development, for designated "Affordable Housing" projects; and when the plans are ready for permitting, that first priority will be given to them with the goal of reducing the process time by 50%; further, that the City prepare a brochure that advises applicants of the application process; and the Housing and Community Development Director will act as "liaison" to coordinate and expedite the application with all relevant agencies.

**New Recommendation:** The AHAC further recommended that the City Manager reconfirm with the Building Department and other department heads, that the Director of Real Estate, Housing & Community Development is liaison for all affordable housing project permit issues and that it is the policy of the City to expedite permitting of affordable housing and to convene a meeting, if necessary, to ensure the implementation is in effect and working properly; The housing department shall create a form to certify and attach to qualified affordable housing plans to be expedited.

**b. Incentive:** The modification of impact-fee requirements, including reduction or waiver of fees and alternative methods of fee payment for affordable housing. [420.9076(4)(b)]

**Synopsis of Discussion/Background:** This incentive was taken up by the 1996 AHAC, which recommended that the City waive only building permit fees. The recommendation was never implemented by the City. Discussion by this committee centered around the fact that the City does not charge impact fees per se and the legal obstacles involved in waiving fees and compensating waived building permit fees from paying permit applicants. A distinction was made between service fees, such as building permits, from taxes and how the government's fee amounts must relate to the service being provided, unlike taxes which may be spent in a discretionary manner. The recommendation from 1996 AHAC was that for affordable housing initiatives whose period of affordability exceeds three years, the City should waive building permit fees based on the pro-rata percentage of units in the building and an affordability period of up to 15 years. A final determination on the permissibility of waiver or reduction of building permit fees is pending from the City Attorney's office.

**New Recommendation:** That the City investigates ways to mitigate or delay payment of building permit fees and/or concurrency fees for affordable housing to the greatest extent legally possible. The City should also determine how payment of the building fees that would have been paid for by the affordable housing developer could be made up by contributions to a fund by non-affordable development.

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**c. Incentive:** The allowance of increased density levels /flexibility for affordable housing. [420.9076(4)(c)]

**Synopsis of Discussion/Background:** Two ways to increase density are: (1) increasing floor area ratios (FAR) – which would require a referendum, or (2) decreasing the average size requirement of units in a building. Exceptions for density allowances exist in the City's code for affordable elderly housing and for the artist development zone, known by its acronym as CANDO. The exception allows a decrease to the average unit size requirement: For new construction the minimum square footage for low and/or moderate income elderly housing can be 550 square feet in multifamily and commercial districts; for rehabilitated buildings the minimum can be 400 square feet. Currently, a variance would be needed to decrease unit sizes below the code requirements for non-elderly affordable housing.

**Recommendation:** That the City consider amending its code to allow for an exception related to minimum average and minimum size units for affordable housing, so that it mirrors the code's existing provisions for *elderly* affordable

housing found in Section 142-1183; Secondly, allow “economic hardship” to be included as one of the variance criteria for affordable housing projects which come before the Board of Adjustment.

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**d. Incentive:** The reservation of infrastructure capacity for housing for very-low-income persons and low-income persons. [420.9076(4)(d)]

**Synopsis of Discussion/Background:** This incentive was deemed inapplicable to Miami Beach’s environment.

**Recommendation:** None

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**e. Incentive:** The allowance of affordable accessory residential units in residential zoning districts. [420.9076(4)(e)]

**Synopsis of Discussion/Background:** The City already allows accessory type of units to be used as residences in the case of multi-family residential zones--for example, the conversion of stand alone garages, in-law quarters, etc. These units can have their own utilities, addresses, etc. The allowance however does not extend into the single family zones and doing so would not produce any significant benefit to allow for such. Because of the already developed environment of the City, expansion of accessory units is not practical or feasible and the committee does not make any recommendation.

**Recommendation:** None

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**f. Incentive:** The reduction of parking and setback requirements for affordable housing. [420.9076(4)(f)]

**Synopsis of Discussion/Background:** Planning staff members reiterated how in the past parking requirements for a given unit were based on the numbers of bedrooms it contained but that people would undercount the bedroom count would occur and so the City adopted a straight unit size approach to parking requirements. Currently, units that are up to 550 square feet in size must have 1.5 parking spaces. It was stated that the typical tenant of affordable studio-sized units does not own a car. As such, leniency should be shown for affordable housing for units that measure 550 square feet or less. The reduction of setback requirements was deemed inapplicable to Miami Beach and no recommendation was proffered.



**Recommendation:** That the City Commission consider amending the Code to allow new construction of affordable housing to have 1.0 parking space for units 550 square feet or smaller instead of the current 1.5 spaces.

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**g. Incentive:** Flexible Lot Configurations - The allowance of zero-lot-line configurations for affordable housing. [420.9076(4)(g)]

**Synopsis of Discussion/Background:** This incentive was deemed inapplicable to Miami Beach. No recommendation was proffered.

**Recommendation:** None

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**h. Incentive:** Modification of street requirements for affordable housing. [420.9076(4)(h)]

**Review Synopsis of Discussion/Background:** This incentive was deemed inapplicable to the City Miami Beach's environment with its compact buildings with relatively small scale sidewalks and streets which pertain to the typical building in Miami Beach. No recommendation was proffered.

**Recommendation confirmed:** None

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**i. Incentive:** The establishment of a process by which a local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing. [420.9076(4)(i)]

**Synopsis of Discussion/Background:** This incentive was taken up by the 1996 AHAC. Discussion and recommendation from 1996 lead to adoption of a code provision (58-152) and a provision in the City's LHAP. A review of the matter found that the City had not implemented the measure.

**Recommendation:** That the staff analysis of items coming before the Planning Board should include an inquiry asking: "Will this item have a negative impact on the cost of housing in Miami Beach?" If staff analysis determines that the item may have a negative impact on an affordable housing project, this fact should be communicated to the Housing Director prior to the Planning Board meeting. The Director will then have a period of time to provide an opinion to the board as to the depth of the negative impact and whether he or she believes the costs outweigh the benefit.

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**j. Incentive:** The preparation of a printed inventory of locally owned public lands suitable for affordable housing. [420.9076(4)(j)]

**Review Synopsis of Discussion/Background:** Since 1996, when this incentive was first taken up by an AHAC, the City has deeded all of its developable land. For this AHAC, the Housing Division compiled a list of its City-owned properties and found there are no City-owned properties available upon which to build affordable housing or for housing of any kind.

**Recommendation:** None

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**k. Incentive:** The support of development near transportation hubs and major employment centers. [420.9076(4)(k)]

**Synopsis of Discussion/Background:** Due to its narrow geography, and numerous bus lines, there are no transportation hubs per se in Miami Beach and no need to strategically place affordable housing related to these considerations.

**Recommendation:** None for the placement close to transportation and employers. However, with respect to local employers, it was recommended by the Committee that there be outreach to local employers, keeping them aware of various funding and affordable housing available for local employees, offering matching funding for employee housing.

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### **III. New Incentives /Recommendations identified by the AHAC:**

**a. Incentive:** Elimination of delays caused by unnecessarily formal and time-consuming City approval procedures for certificates of consistency

**Synopsis of Discussion/Background:** It was pointed out by members with first hand experience that the City of Miami Beach is the only government entity in the area which requires our City Commission approval of certificates of consistency (i.e. determination whether a project is consistent with the City's approved Consolidated Plan). In other communities, this certificate is completed by administration---either by the director of the housing department or its city manager. Allowing administration to approve these certifications will eliminate unnecessary delays---delays which have cause funding deadlines to be missed.

**Recommendation:** In light of the severe delays caused by the necessity of bringing to Commission a certificate of consistency, and the attendant carrying costs caused by such delays, the City should consider passing a resolution to

align itself with other municipalities by allowing certificates of consistency, at least for service contract renewals, to be approved by the administration and not the Commission.

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**b. Incentive:** Finding properties that will lead to preserving and/or creating affordable housing opportunities.

**Review Synopsis of Discussion/Background:** The Committee requested staff to obtain various lists of properties for the possibility of preserving and/or developing affordable housing. The lists requested included existing affordable properties with upcoming expiring uses, properties heavily burdened with City of Miami liens, as well as vacant and/or abandoned properties. It was found that there were 11 properties with liens between \$200,000 and \$2 million in the North Beach area. The City does not maintain a list of vacant or abandoned properties per se, but with the Neighborhood Stabilization Program funds in the pipeline, the City will soon be working with banks holding title to foreclosed properties with the goal of purchasing units and re-selling them to income qualified households as affordable housing.

**Recommendation (liened properties):** For landlords whose properties that are heavily liened with City of Miami Beach fines, the City should consider creating legislation that would incentivize owners to sell their properties to a not-for-profit development company or otherwise make them available to income-qualified purchasers as affordable housing. The incentives would combine mitigation of the City's fines in exchange for remediation of the violation and long-term affordability restrictions.

**Recommendation (expiring use):**

The committee recommended that the City explore ways of ensuring that current affordable housing projects with upcoming expiring uses are not sold into the private markets and become unaffordable; that the City undertake due diligence to determine owner's intentions and pursue all possible sources of funding to be used to preservation of affordable housing.

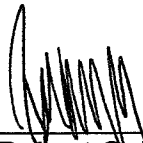
**c. Incentive:** For the City to allow building violation liens removed before the affordable housing developer obtains the certificate of occupancy.

**Review Synopsis of Discussion/Background:** The Building Department requires the developer to obtain a certificate of occupancy before a lien is removed. Funders meanwhile require that a building be free of liens before funding is released. At times the issue causes a classic "catch 22". Currently a developer of liened properties may escrow money in the amount of the lien (fines only) so that the liens are lifted from the books and stay off until the time they received the certificate of occupancy. For affordable housing, instead of money being paid into escrow, the developer would sign a guarantee that the liens would be corrected by the time of inspection for the certificate of occupancy.

**Recommendation:** For the City to allow an exception to the rules for affordable housing so that liens are removed upon request and coordination by a departmental liaison such as Real Estate, Housing and Community Development, in exchange for a documentable commitment to fix the violation and to create affordable housing units.

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The foregoing recommendations adopted by the City of Miami Beach Affordable Housing Advisory Committee are being submitted herewith for approval to the City Commission of the City of Miami Beach, Florida on this 19 Day of Nov. November of 2008.

  
\_\_\_\_\_  
Robert Saland, Chairman

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATIONS REPORT FROM THE AFFORDABLE HOUSING ADVISORY COMMITTEE AND REFERRING SAME TO THE LAND USE & DEVELOPMENT COMMITTEE FOR DISCUSSION AND IMPLEMENTATION CONSIDERATIONS.**

**WHEREAS**, the City of Miami Beach has identified in its Consolidated Plan the goal of pursuing funding for affordable housing for the rehabilitation of its existing housing stock and to provide home-ownership opportunities to its residents; and

**WHEREAS**, in 1992, the William E. Sadowski Affordable Housing Act established the State Housing Initiatives Partnership (SHIP) Program, administered by the Florida Housing Finance Corporation (FHFC) provides funding for rehabilitation of housing stock and homeownership opportunities for low and moderate income households; and

**WHEREAS**, SHIP Program funds, derived from set-aside allocations from documentary stamp levies on real estate transactions, has been allocated to the City of Miami Beach in the amounts of \$529,771 and \$525,768 for Fiscal Years 2007-08 and 2008-09, respectively; and

**WHEREAS**, in 2007, the Florida Legislature passed Housing Bill 1375 requiring cities and counties receiving SHIP funds to appoint an affordable housing advisory committee to review the City's established policies and procedures, ordinances, land development regulations, and adopted local Comprehensive Plan in order to recommend actions or initiatives to encourage or facilitate affordable housing, while protecting the ability of the property to appreciate in value; and

**WHEREAS**, on July 16, 2008, the Mayor and City Commission established the Affordable Housing Advisory Committee through Resolution No. 2008-26838; and

**WHEREAS**, the Affordable Housing Advisory Committee held four (4) public meetings during the months of August, September, October and November, and approved the attached recommendations report during a duly advertised public hearing held on November 18, 2008.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Commission hereby accept to receive the submittal of the recommendations from the Affordable Housing Advisory Committee and refer same to the Land Use & Development Committee for discussion and recommendation back to the City Commission.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2008.

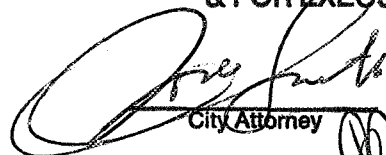
ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

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APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

  
\_\_\_\_\_  
City Attorney

12/4/08  
\_\_\_\_\_  
Date