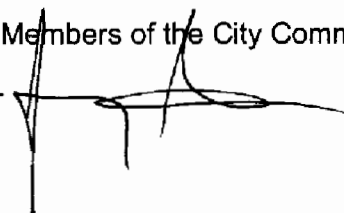




COMMISSION MEMORANDUM

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

FROM: Jimmy L. Morales, City Manager 

DATE: September 11, 2013

SUBJECT: **REFERRAL TO THE LAND USE AND DEVELOPMENT COMMITTEE –
DISCUSSION REGARDING REVISIONS TO CITY CODE CHAPTER 54,
VARIANCE REQUIREMENT FOR HISTORIC STRUCTURES**

ADMINISTRATION RECOMMENDATION

The Administration recommends that the discussion item be referred to the Land Use and Development Committee.

BACKGROUND

In August 2012, the City of Miami Beach received a Community Assistance Visit (“CAV”) from the Federal Emergency Management Agency’s (“FEMA”) National Flood Insurance Program (“NFIP”). These visits are routine, and occur approximately every five years. The purpose of the visit was to evaluate the effectiveness of floodplain management and other programs the City implements to reduce the impacts of flooding.

On December 20, 2012, FEMA prepared a summary report of its findings from this visit and provided it in a letter of that date to Mayor Matti Herrera Bower. While most of the findings were in the nature of items that staff could respond to directly, the letter included recommended changes to Chapter 54, “Floods”, of the City of Miami Beach’s Code of Ordinances. Through subsequent communications with the agency, some additional proposed amendments were suggested, and minor revisions were recommended by staff and the City Attorney’s Office. These revisions are the subject of a separate agenda item on the September 11, 2013 City Commission Agenda. In the process of preparing the Floodplain Ordinance Amendments for the City Commission, some conflicting language in the Ordinance has come to the attention of staff and FEMA that requires some policy direction from the City Commission.

ANALYSIS

The definition of “Substantial Improvement” in Miami Beach City Code Section 54-35, states in relevant part: “This term does not include any alteration on an existing historic structure, provided that the alteration will not preclude the structure’s continued designation as a historic structure.” Both FEMA and the City Attorney’s Office have recommended the elimination of this language to avoid the impression that historic structures are exempt from FEMA’s regulations, and specifically, the requirement that historic structures, like all others, must obtain variances from the Board of Adjustment sitting as the Floodplain Management Board. However, Section 54-57 (Historic Structures) of the Miami Beach City Code, has long been interpreted to require that

Historic Structures obtain variances, and that is in fact how the process has operated in the City.

The language in these two provisions appears to be in conflict, and advocates for historic properties believe historic structures should be exempt from variance requirements. As such, policy direction from the City Commission on the matter is required.

CONCLUSION

The Administration recommends that these issues be referred for discussion at a future Land Use and Development Board Meeting.


JJ/MVF/SS