

# **Implementation of Ordinance No. 08-133 Regarding Certificate of Use Requirement for The Sale of Foreclosed Properties**

## **FACT SHEET**

### **Q. When was the new Ordinance approved?**

**A.** On December 2, 2008 the Board of County Commissioners adopted Ordinance No. 08-133, which requires issuance of a Certificate of Use (CU) by the Department of Planning and Zoning (DP&Z) for residential properties (in unincorporated Miami-Dade County) which are acquired through a Certificate of Title (Foreclosures and Judgments), in accordance with Chapter 45, Florida Statutes. This new ordinance requires the establishment of a new Certificate of Use process for such properties. This process will require that affected individuals/institutions obtain a CU, prior to the offering of such property either through a sale, transfer or alienation of such property.

### **Q. What is the purpose of the Certificate of Use (CU) requirement for the sale of foreclosed properties?**

**A.** The new CU requirement is a consumer-protection legislation. The process of the new CU is to document and disclose to the public/buyer, the extent to which residential properties (i.e. single family, condominium, townhouse, or duplex) acquired in this way comply with all applicable building codes and zoning codes.

### **Q. Who is responsible for obtaining the Certificate of Use (CU) for the sale of foreclosed properties?**

**A.** The holder of a property acquired through a Certificate of Title in accordance with Chapter 45, Florida Statutes (Foreclosures and Judgments) -- i.e. lending institutions and mortgagees.

### **Q. Who would be responsible for making a buyer aware of the recorded report if the seller neglects to make them aware of it?**

**A.** The report is available to the potential buyer and the Certificate of Title holder or their agent, through the Clerk of the Courts. The report should be provided at the time of closing by the mortgage companies, title companies and any other responsible entities.

### **Q. What properties are affected?**

**A.** Only residential properties acquired through a Certificate of Title in accordance with Chapter 45, Florida Statutes (Foreclosures and Judgments) that are located in **UNINCORPORATED** Miami-Dade County – properties with folio numbers beginning with 30.

**Q. Are short sales or Deed in Lieu of Foreclosure affected?**

A. No, only properties acquired through a Certificate of Title in accordance with Chapter 45, Florida Statutes (Foreclosures and Judgments).

**Q. Are Foreclosed Properties acquired through a Certificate of Title in Accordance with Chapter Florida Statutes (Foreclosures and Judgments) prior to December 12, 2008 required to obtain a Certificate of Use?**

A. No, only properties acquired through a Certificate of Title **on or thereafter December 12, 2008**, in accordance with Chapter 45, Florida Statutes (Foreclosures and Judgments).

**Q. What does the new Certificate of Use (CU) process for the sale of foreclosed properties require?**

A. The new CU process includes preparation of a **disclosure of findings report**, which identifies building or zoning code violations for each property and contains a good faith estimate of the cost to remedy any deficiencies. This report must be completed by an architect or professional engineer licensed and registered in the State of Florida and submitted to the Zoning Permits Section of DP&Z at the Miami-Dade Permitting and Inspection Center located at 11805 S.W. 26<sup>th</sup> Street (Coral Way), Miami, FL 33175.

**Q. How can the new Certificate of Use (CU) process for the sale of foreclosed properties protect people?**

A. By making prospect property owners aware of building or zoning deficiencies.

**Q. What is the effective date of enforcement for the new Certificate of Use (CU) for the sale of foreclosed properties?**

A. **April 1, 2009.**

\*\*Although, Ordinance 08-133 became effective December 12, 2008. The Department of Planning and Zoning has made a determination that enforcement commenced on **April 1, 2009** for foreclosed properties acquired through a Certificate of Title on December 12, 2008 or thereafter and that were not under contract prior to April 1, 2009.

**Q. Are there submittal forms?**

A. The submittal form to be used by the applicant in the preparation of the disclosure and findings report is available at both of the Department of Planning and Zoning locations, as well as on the Department's web page [www.miamidade.gov/planzone](http://www.miamidade.gov/planzone).

**Q. Where can I review those applications?**



**Q. What is the cost of the Certificate of Use (CU) for the sale of foreclosed properties and what makes up that fee amount?**

A. A \$309 fee plus 8% surcharge, per property is required for the DP&Z's review of the disclosure and findings report and the issuance of a final CU, with \$257.50 of which to be paid "up front" at the time of report submittal and the remaining \$51.50 due at the time of CU issuance. An additional \$51.50 fee plus 8% surcharge is also included for cases where a disclosure of findings report is rejected by Department staff and must be re-submitted.

\*\*\*All Fees are subject to an 8% surcharge

**Q. What about violations?**

A. After the disclosure and findings report has been reviewed by staff, violations noted by the design professional will be referred to the appropriate department, Building or Office of Neighborhood Compliance (ONC). DP&Z staff will notate on the disclosure report that a referral(s) has been made prior to the document being recorded. DP&Z staff will enter the referral(s) in the Oracle system. This will allow the DP& Z to keep track of the referrals made to Building and ONC. The secretary of the Zoning Permit/Inspection Section will then email the referrals to the designated contact person for Building and ONC. **Please note that the report's acceptance is independent from the outcome of these violations.**

**Q. What will happen with the code violations after the report is completed and the County becomes aware of the violations? Will the County's code enforcement officials start issuing fines to the owner of the property?**

A. The Ordinance requires that violations be referred to the applicable County agencies. If code enforcement action is initiated and the property continues to be in violation of the code, fines may be levied only after the warning/citation and hearing/appeals processes have been completed.

**Q. What are penalties for non-compliance with the new Certificate of Use (CU) for the sale of foreclosed properties?**

A. Failure to obtain the required CU will result in penalties as provided in Chapter 8CC of the County code.

**Q. Who is responsible for fixing the code violations?**

A. From a legal perspective the owner of the property during any time that the violation exists is responsible to the County to remedy the code violations. As such, the buyer and seller will ultimately be legally responsible for repairs unless the repairs are made before the closing. However the seller and the buyer can decide between themselves as part of the sales contract who will be responsible for the repairs.

**Q. If the code violations are corrected after the report is recorded, how will it be possible to reflect corrections on the recorded?**

**A.** The responsible party may choose to have an architect or engineer prepare a report that certifies the completion of repairs and subsequently submit that report for recordation. They may also choose to record a statement from a contractor that all identified repairs have been made.

**Q. How can the public obtain additional information on the new Certificate of Use (CU) for the sale of foreclosed properties?**

**A.** All the pertinent information is posted on the DP&Z's website. The website's address is [www.miamidade.gov/planzone](http://www.miamidade.gov/planzone). If additional information is needed, you may contact Ralph Gisbert, Supervisor of the Zoning Permits and Inspections Section at (786) 315-2660.

The information is being disseminated through the County's web-portal, The County's Scoop publication (which is mailed to over 300,000 county residents), Miami-Dade TV, DP&Z's informational sessions and direct mailings.