

**CITY OF CORAL GABLES, FLORIDA**

**RESOLUTION NO. 2015-224**

A RESOLUTION OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA AUTHORIZING THE INITIATION OF STATUTORY GOVERNMENTAL DISPUTE RESOLUTION PROCEDURES WITH MIAMI-DADE COUNTY, THE PROPERTY APPRAISER OF MIAMI-DADE COUNTY, AND THE TAX COLLECTOR OF MIAMI-DADE COUNTY, OVER COLLECTION OF THE CITY'S SOLID WASTE ASSESSMENTS PURSUANT TO THE UNIFORM ASSESSMENT COLLECTION ACT, SECTION 197.3632, FLORIDA STATUTES, AND AUTHORIZATION OF EMERGENCY LITIGATION.

**WHEREAS**, City of Coral Gables Ordinance No. 2015-09 authorizes the imposition and collection of special assessments against property, including non-ad valorem service assessments, within the meaning and intent of the Uniform Assessment Collection Act; and

**WHEREAS**, Ordinance No. 2015-09 sets forth procedures by which the City may create Assessment Areas for the imposition and collection of such Service Assessments, including the adoption of an Initial Assessment Resolution, and Initial Service Assessment Roll, notice by publication and mail, a public hearing, and the adoption of a Final Assessment Resolution for the upcoming fiscal year; and

**WHEREAS**, on June 16, 2015, the City adopted Initial Assessment Resolution No. 2015-96, seeking to impose Solid Waste Service Assessments for services that the City provides with regard to the collection, processing, and disposal of solid waste and recyclable materials against certain residential properties within the City, and authorizing the Finance Director to prepare an initial Solid Waste Assessment Roll for the fiscal year commencing October 1, 2015, listing all residential properties with unpaid fees in excess of \$850 as of the effective date of the Initial Assessment Resolution; and

**WHEREAS**, the City elected to use the uniform method set forth in section 197.3632, Florida Statutes for collection of the special assessment on the annual tax notice sent to property owners within the City; and

**WHEREAS**, the City complied with all requirements of section 197.3632, timely providing both publication and mail notice to all affected property owners of the assessment and public hearing, and convening a public hearing on the assessments and resolution on August 25, 2015; and

**WHEREAS**, the City adopted a Final Assessment Resolution for Solid Waste, Resolution No. 2015-189, on August 25, 2015 (the "Final Resolution"), imposing solid waste

assessments on certain residential properties within the City that had received and benefitted from the City's provision of solid waste collection and disposal services, and authorizing collection of all amounts due and owing on the same bill as ad valorem taxes; and

**WHEREAS**, the City complied fully with both section 197.3632, Florida Statutes and chapter 12D-18 of the Florida Administrative Code before adopting the Final Resolution; and

**WHEREAS**, on September 11, 2015, the City delivered the certified Solid Waste Assessment Roll to the Miami-Dade County Property Appraiser (the "Property Appraiser"), pursuant to section 197.3632, Florida Statutes; and

**WHEREAS**, on September 15, 2015, the City delivered the certified Final Resolution, to the Miami-Dade County Tax Collector (the "Tax Collector"), pursuant to section 197.3632, Florida Statutes; and

**WHEREAS**, as of the date of this Resolution, the Property Appraiser has not provided the Solid Waste Assessment Roll to the Miami-Dade County Tax Collector (the "Tax Collector"), in accordance with standard procedure; and

**WHEREAS**, despite the City's full compliance with all legally required procedures, the Property Appraiser has informed the City that he will not forward the Solid Waste Assessment Roll to the Tax Collector, and thus intends to prevent the special assessment for solid waste from being levied on residential properties on the Solid Waste Assessment Roll; and

**WHEREAS**, the Tax Collector has refused to levy the special assessment for solid waste because it has not received the Solid Waste Assessment Roll from the Property Appraiser; and

**WHEREAS**, Rule 12D-18.001, Florida Administrative Code provides that the duties of tax collectors and property appraisers under Section 197.3632, Florida Statutes are ministerial, and property collectors and tax collectors are not afforded any discretion to refuse collection of a special assessment collected pursuant to the uniform statutory method set forth in section 197.3632, Florida Statutes, which principle is supported by binding appellate precedent, namely the First District Court of Appeal's decision in *Escambia County v. Bell*, 717 So. 2d 85 (Fla. 1st DCA 1998); and

**WHEREAS**, the City Attorney issued City Attorney Opinion No. 2015-094, opining pursuant to sections 2-201(e)(1) and (8) of the City Code that the City's special assessment was valid, that the ordinance and resolution establishing and imposing the special assessment have a presumption of validity, and that the tax collector and property appraiser have a ministerial duty to proceed with collection of the assessment based on clearly established law; and

**WHEREAS**, section 164.1052, Florida Statutes establishes a mechanism by which a governmental entity may initiate dispute resolution proceedings against another governmental entity prior to taking court action; and

**WHEREAS**, it is the intention of the City Commission to initiate the conflict resolution procedures provided by section 164.1052, Florida Statutes prior to initiating court proceedings against the Property Appraiser, the Tax Collector, and the County; and

**WHEREAS**, section 164.1041(2), Florida Statutes provides that a governmental entity may pursue immediate court action against another governmental entity if it finds by a three-fourths vote of its governing body that that an immediate danger to the health, safety, or welfare of the public requires immediate court action; and

**WHEREAS**, the City Commission finds that the refusal by the County, the Property Appraiser, and the Tax Collector to collect these assessments for solid waste poses an immediate danger to the public welfare and will compromise significant legal rights of the City, which requires immediate court action; and

**WHEREAS**, the City Commission may authorize court action pursuant to section 2-201(e)(3) of the City Code;

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA:**

**SECTION 1.** The foregoing “**WHEREAS**” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon adoption hereof.

**SECTION 2.** The City Attorney, is hereby authorized and directed to commence dispute resolution procedures against the County, the Property Appraiser, and the Tax Collector. The City Attorney is further authorized to take all steps necessary, including immediate court action, to seek declaratory relief and a writ of mandamus compelling the County, the Property Appraiser, and the Tax Collector, to take all necessary steps to bill residential property owners on the Solid Waste Assessment Roll for delinquent special assessments on their 2015 tax bills. The City Attorney is further authorized to seek monetary damages arising from the refusal to include these assessments on residents’ tax bills. The City Manager and City Attorney are granted full authority to take any actions appropriate to resolve this matter and accomplish the Commission’s purpose as stated herein

**SECTION 3.** The City Clerk is directed to provide a copy of this Resolution to the Mayor of Miami-Dade County, the Members of the Board of County Commissioners for Miami-Dade County, the Property Appraiser for Miami-Dade County, and the Tax Collector for Miami-Dade County.

**SECTION 4.** This Resolution shall become effective immediately upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS TWENTY-SECOND DAY OF SEPTEMBER, A.D.,  
2015.

(Moved: Quesada/ Seconded: Lago )  
(Yeas: Slesnick, Keon, Lago, Quesada, Cason)  
(Unanimous: 5-0 Vote)  
(Agenda Item: I-2)

APPROVED:



JIM CASON  
MAYOR

ATTEST:



WALTER J. FOEMAN  
CITY CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY



CRAIG E. LEEN  
CITY ATTORNEY