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COMMITTEE MEMORANDUM

TO: Members of the Public Safety and Neighborhoods Quality of Life Committee

FROM: Alina T. Hudak, City Manager

DATE: March 29, 2022

SUBJECT: **DISCUSSION REGARDING RECOMMENDATIONS BY RESIDENTS CONCERNING THE BUSINESS TAX RECEIPT CRITERIA.**

BACKGROUND/HISTORY

This item was referred to the Public Safety and Neighborhoods Quality of Life Committee (NQLC) at the April 21, 2021 City Commission meeting by Commissioner Samuelian. The purpose of the referral is to discuss the business tax receipt (BTR) criteria and proposed modifications sent by residents, including:

- (1) Authorize a review of police calls for service history and code enforcement history for any business seeking BTR renewal and require such review for certain specific types such as dance halls, liquor stores, restaurants, convenience stores, and alcohol beverage establishments, in an effort to identify patterns in calls for police service and/or code enforcement that may point to possible public safety concerns associated with the business seeking BTR renewal.
- (2) When such patterns stated in paragraph 1 are identified, require the City Manager to further vet the business seeking BTR renewal. Such vetting may include a review of business practices and a site visit during hours of operation but must at a minimum include consultation with the Director of Code Enforcement and the Chief of Police prior to the renewal of the BTR.
- (3) Upon such further vetting stated in paragraph 2, allow the City Manager to: (a) deny the issuance of a BTR or (b) issue conditions that must be met for the renewal of the BTR.

An update was provided at the September 20, 2021 meeting of the Committee. The update outlined that several meetings had taken place with a working group that included staff from the City Attorney's Office, Code Compliance Department, Police Department, and Finance Department. The working group reviewed the various sections of the City Code pertaining to BTR's including: application procedures (Section 102-371); grounds for denial (Section 102-372); grounds for suspension, revocation, and denial (Section 102-381); notice of violation, emergency action (Section 102-383); hearing procedures, enforcement of orders (Section 102-385). After close review of the applicable City Code sections, the working group felt that there is existing language in the current City Code that can be adequately used to address problematic operators.

ANALYSIS

Over the last few months, the working group has continued to meet and has been expanded to include staff from the Building and Fire departments. These meetings help the team collaborate in a more proactive approach, to exchange information regarding problematic operators so that suitable evidence can be collected to effectively enforce the applicable provisions of the City Code. Since the last update in September, the team has focused its collective efforts on analyzing businesses that are driving the most police calls for service and further evaluating the City Code for potential changes to incentive better behavior by problematic businesses.

Businesses Driving Police Calls for Service

The team generated and reviewed a list showing the top 24 businesses that drove police calls for service during calendar year 2021. For each business on the list, the team methodically checked that the BTR status was active, the Resort Tax reporting status if applicable, the number of code compliance calls for service, any building department violations, any moneys owed to the City, and whether or not the businesses currently have off-duty police.

Only one business did not have an active BTR and two violations have been issued since January. The same business also was not up to date filing resort taxes and a violation was subsequently issued. Twelve of the businesses owe moneys to the City. Any amounts that are not paid by October 1, 2022, will result in a suspension of the BTR when it is renewed for FY 2022. The exceptions are any Building or Fire related fines, which have their own collection processes through the Unsafe Structures Board and Special Master hearings. Interestingly, 5 of the 24 businesses are pharmacies. Overall, 9 of the 24 businesses have off-duty police. Over the next few weeks, the Police Department will be reaching out to all businesses on the list to encourage the use of off-duty police and begin analysis of the next tier of businesses (25 through 50).

TOP 24 CALLS FOR SERVICE LOCATIONS CITYWIDE JAN 1, 2021- DECEMBER 26, 2021									
#	LOCATION	Police Calls for Service	LOCATION NAME	Currently Have Off-Duty PD	BTR STATUS	RTX STATUS	Code Calls for Service	Building Dept. Violations	Past Due A/R Notes
1	4441 COLLINS AVE MIAMI BEACH 33140	276	FOUNTAINBLEAU	✓	ACTIVE	ACTIVE	22		
2	1747 BAY RD MIAMI BEACH 33139	176	TREMONT TOWING	✓	ACTIVE	N/A	-		
3	1000 COLLINS AVE MIAMI BEACH 33139	165	FAIRWIND HOTEL		ACTIVE	ACTIVE	270		\$14,250 in Code Enforcement Fines
4	1669 COLLINS AVE MIAMI BEACH 33139	164	WALGREENS	✓	ACTIVE	N/A	92		
5	350 LINCOLN RD MIAMI BEACH 33139	154	LINCOLN RD RENTAL OFFICE BUILDING		ACTIVE	N/A	3		\$18,795.27 SM Liens & \$2,000 in Code Enforcement Fines
6	5445 COLLINS AVE MIAMI BEACH 33140	145	CASTLE BEACH CLUB		ACTIVE	N/A	47	16 US Violations & 4 BV	\$72,251 SM Liens & \$2,250 US Violations
7	300 ALTON RD	143	MARINA	✓	ACTIVE	N/A	3,265		\$2,035.65 City Bill
8	1100 WEST AVE MIAMI BEACH 33139	137	MONDRIAN	✓	ACTIVE	ACTIVE	42		\$1,750 in Code Enforcement Fines
9	800 WASHINGTON AVE MIAMI BEACH 33139	131	BLACKSTONE EQUITIES		Violations Issued: 1st Offense 11/26/21 2nd Offense 2/23/22	Violation Issued 2/23/22 (Missing 4/2020 & 4/2021 Filing)	15	3 US Violations & 1 BV	\$14,474 SM Liens, \$1,000 in Code Enforcement Fines, \$1,000 US Violations & \$16,464.80 Recorded Lien
10	1601 COLLINS AVE MIAMI BEACH 33139	130	LOEWS HOTEL	✓	ACTIVE	ACTIVE	17		
11	1020 OCEAN DR MIAMI BEACH 33139	130	CLEVELANDER	✓	ACTIVE	ACTIVE	61		
12	1500 BAY RD MIAMI BEACH 33139	128	FLAMINGO SOUTH BEACH		ACTIVE	N/A	94	2 US Violation & 1 BV	
13	524 JEFFERSON AVE MIAMI BEACH 33139	127	WALGREENS #3162		ACTIVE	N/A	-		
14	900 OCEAN DR MIAMI BEACH 33139	121	MANGO'S	✓	ACTIVE	ACTIVE	4		
15	306 LINCOLN RD MIAMI BEACH 33139	111	CVS		ACTIVE	N/A	15		\$1,000 in Code Enforcement Fines
16	1732 COLLINS AVE MIAMI BEACH 33139	110	CATALINA HOTEL		ACTIVE	ACTIVE	12		\$189,225.74 in SM Liens & \$7,547 in Code Enforcement Fines
17	1545 COLLINS AVE MIAMI BEACH 33139	110	ROYAL PALM HOTEL		ACTIVE	ACTIVE	22		
18	501 COLLINS AVE MIAMI BEACH 33139	109	WALGREENS		ACTIVE	N/A	5		
19	1500 COLLINS AVE MIAMI BEACH 33139	108	AXEL BEACH HOTEL		ACTIVE	ACTIVE	9		\$1,500 in Code Enforcement Fines
20	1 LINCOLN RD MIAMI BEACH 33139	105	THE RITZ SOUTH BEACH		ACTIVE	ACTIVE	15		\$108 in SM Case & \$3,750 in Code Enforcement Fines
21	1349 DADE BLVD MIAMI BEACH 33139	104	BEACH TOWING SERVICES	✓	ACTIVE	N/A	2		
22	855 COLLINS AVE MIAMI BEACH 33139	103	CHESTERFIELD HOTEL		ACTIVE	ACTIVE	16		\$108 SM Case
23	1400 COLLINS AVE MIAMI BEACH 33139	102	WALGREENS		ACTIVE	N/A	225		
24	1 WASHINGTON AVE MIAMI BEACH 33139	100	SOUTH POINTE PARK/SMITH & WOLLENSKY		ACTIVE	ACTIVE	19	1 US Violation	\$250 US Violation

Incentivizing Better Behavior by Problematic Businesses

The cross-departmental team has observed that when problematic businesses are shut down because they do not have an active BTR or are exceed their occupancy load, they often come into compliance in a matter of days and treat the fines or temporary closures as a cost of doing business. In other words, there is no real incentive to comply with the City Code until they are caught and have been operating for months since the financial impact to the business is very limited. The team is currently exploring options that would mandate minimal closure times depending on the type and number of offenses. For example, a business that is caught operating without an active BTR would have to remain closed for a minimum period such as 2 weeks on first offense, 4 weeks on second offense, and one year after 3 offenses within a specified time period such as 12 months. The team feels that a mandatory closure period makes more sense than simply increasing fines since the fines are not usually high enough to deter behavior and are often reduced when they go through the special master process.

At this time, it is not clear if the City Code for the Certificate of Use process or BTR process is recommended to be changed. Any recommendations to change the City Code will be brought up at the next update to the Committee.

CONCLUSION

The cross-departmental BTR team will continue to follow through with any outstanding items from analyzing the top 24 businesses driving police calls and begin analyzing the next tier of businesses. In addition, the BTR team will continue evaluating potential changes to the City Code that could incentivize better behavior by problematic businesses.