



100 S. Ashley Drive, Suite 700  
Tampa, FL 33602-5358  
(813)228-0555 / (800)342-5957  
(813)228-0301 (Fax)  
www.oldrepublictitle.com  
Home Office: Minneapolis, Minnesota 55401-2499

## **BULLETIN 09-04**

To: All Old Republic National Title Agents and Offices

From: Underwriting Department

Re: Miami-Dade County – Certificates of Use

Date: March 31, 2009

Miami-Dade County recently adopted Ordinance No. 08-133 which requires title holders of foreclosed residential properties to obtain a Certificate of Use prior to selling certain property. On March 3, 2009, the Miami-Dade Board of County Commissioners issued an Implementing Order to clarify the new requirements. The Implementing Order became effective on March 13, 2009 and is attached to this Bulletin for your reference.

The Implementing Order provides that a Certificate of Use must be issued by the Department of Planning and Zoning (the “Department”) for each residential property in unincorporated Miami-Dade County acquired through a Certificate of Title, in accordance with Section 45, Florida Statutes. Please note that the Implementing Order only applies to Certificates of Title issued after December 12, 2008. Additionally, it only applies to **residential** property (single family, condominium, townhouse or duplex) located in **unincorporated** Miami-Dade County.

The stated purpose of the Certificate of Use is to determine whether or not the residence in question complies with all building and zoning codes and to disclose those findings to prospective buyers. The Implementing Order requires the preparation of a Disclosure of Findings Report (the “Report”) to be completed by a licensed architect or engineer registered in Florida and submitted to the Zoning Permits Section of the Department of Planning and Zoning. The Report must contain the estimated costs to repair/remedy any building or zoning violations and be recorded in the public records of Miami-Dade County. Any violations noted in the Report will be reported to the appropriate agency.

\*\* This Bulletin should become a permanent part of your records to assist in your compliance with the requirements contained herein. \*\*

Please **provide a copy of this Bulletin to your staff** so they can read it and become aware of its contents.

**REMEMBER:** All ORT Alerts, Bulletins, Notices and our Newsletter can be found on our web site, [www.ortfl.com](http://www.ortfl.com).

Our Alerts and Bulletins are issued via fax and email, but you should check our web site frequently to make sure you have copies of everything issued.

Please call your Underwriting Department if you have any questions.

Failure to obtain the required Certificate of Use will result in a fine issued to the person or entity that obtained ownership of the property through the Certificate of Title, but will not affect the validity of the deed or otherwise affect the title to the property. Although from a closing agent perspective it is important for you to be aware of the requirements for the Certificate of Use, Old Republic National Title Insurance Company is currently not requiring agents to ascertain compliance with the Ordinance prior to closing or to include an exception in the policy. If we discover that Clerks are refusing to record deeds unless the buyer can demonstrate compliance, we may have to re-visit this issue. At this time we have not heard of any such refusal and in our opinion the Clerks do not have the authority under Florida law to refuse to record.

The Implementing Order does state that failure to pay the fine may result in a lien being filed against the property. Accordingly, if your search reveals a lien due to a prior owner's failure to pay the fine, it will be necessary to obtain a release prior to closing or to include an exception in your policy.

You may find additional information regarding the Certificate of Use at Miami-Dade County's web site at <http://www.miamidade.gov/planzone>. If you have any questions, please contact the Underwriting Department at 1-800-342-5957.

I.O. No.: 2-10  
Ordered:  
Effective:

MIAMI-DADE COUNTY  
IMPLEMENTING ORDER

CERTIFICATE OF USE  
(FORECLOSURES AND JUDGEMENTS)

**AUTHORITY:**

Section 1.01 of the Miami-Dade County Home Rule Amendment and Charter, as amended; Section 33-8 of the Code of Miami-Dade County; and Ordinance No. 08-133.

**POLICY:**

A Certificate of Use (CU) shall be issued by the Department of Planning and Zoning (Department) for each residential property (i.e. single family, condominium, townhouse or duplex) in unincorporated Miami-Dade County acquired through a Certificate of Title (foreclosures and judgments), in accordance with Section 45, Florida Statutes. This Implementing Order shall not apply to Certificates of Title issued prior to December 12, 2008. The Director of the Department of Planning and Zoning (Director) shall establish a process to implement this policy.

**PROCESS:**

The CU shall be for the purpose of determining whether or not the residence in question complies with all building codes and zoning codes applicable to the residence and to provide a disclosure of those findings. The Director shall require disclosure by requiring an inspection of the property by an architect or engineer licensed and registered in the State of Florida, and to subsequently record in the public records of Miami-Dade County the disclosure of findings report (Report), after which the CU may be issued. The Report shall include a good faith estimate of the costs to repair or remedy all building and zoning code violations disclosed by the property inspection. Building violations found in the report shall be referred to the Building Department for enforcement. Zoning violations found in the report shall be referred to the Office of Neighborhood Compliance for enforcement.

In the event there is a question as to the legality of a use, the Director may require additional inspections, affidavits and such other information as may be deemed appropriate or necessary to establish the legality of the use, before a CU is issued.

Failure to obtain the required CU shall result in a fine, pursuant to Chapter 8CC of the Miami-Dade County Code, issued to the person or entity that obtained ownership of the property through a Certificate of Title. Failure to pay the fine may result in a lien against the property.

This Implementing Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.

County Manager

Approved by the County Attorney as  
to form and legal sufficiency           

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