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Miami 21 may face implementation delay

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Two weeks before it's scheduled to go into effect, the ambitious, endlessly debated and nationally lauded Miami 21 zoning code appears to be once again on political life support -- this time because of a concerted, behind-the-scenes blitzkrieg by a squad of developers' lawyers who have long sought to scuttle the measure.

In a series of recent closed-door meetings, the lawyers -- representing such influential Miami firms as Bilzin Sumberg Baena & Price, Becker Poliakoff and Bercow Radell & Fernandez, as well as the Builders Association of South Florida and the Latin Builders Association -- have met with Miami Mayor Tomás Regalado and city commissioners to pressure them to block or kill the new, pedestrian-friendly code set to go into effect May 20.

E-mails obtained by The Miami Herald suggest the lawyers -- led by Bilzin's Vicky Garcia Toledo -- think they have lined up enough votes to at least delay implementation of the measure until January 2011, one year after it was originally set to go into effect, when commissioners next meet May 13.

Their ultimate goal: to block implementation of Miami 21 "as currently drafted," according to one e-mail by Bercow Radell attorney Melissa Tapanes. Tapanes, reached by phone, declined to comment. Garcia Toledo, like others involved in the effort, did not respond to interview requests.

The stakes are significant for developers, commissioners and Miami residents. And as has been the case with the Miami 21 project almost since its inception five years ago under then-Mayor Manny Diaz, the political dynamics appear to be shifting daily.

Ironically, Miami 21 supporters note, the measure's fate could be sealed outside the public eye after five years of often-intense public debate, more than 400 public hearings, numerous votes by city boards and the commission and painstaking compromises meant to balance property rights with neighborhood preservation.

Further delay, supporters say, could serve only to kill or gut the new zoning code, which is meant to reign in the over-scaled, helter-skelter development that has plagued Miami for years, while promoting walkable streets and a denser, more-coherent urban fabric.

"Miami 21 is predictable, and it reduces problems," said Andrés Duany, whose Miami firm, Duany Plater-Zyberk & Co., was the city's chief consultant on the new code. "Attorneys can't stand that. Miami 21 changes the rules of the game."

Some developers and their attorneys have long complained that Miami 21 unfairly restricts what they can build.

SYMPATHETIC EARS

They have received a sympathetic hearing from at least some of the four commissioners who were not in

office when the measure was voted into law 4-1 last September.

Meanwhile, Commission Chairman Marc Sarnoff, the lone surviving Miami 21 supporter on the commission, said he has been deliberately frozen out.

"I haven't had a cogent conversation with anyone on this. I wasn't invited," he said.

Sarnoff said the mayor called him in a near-panic two weeks ago.

"Regalado said he had like a riot going on in his office with developers saying they were going to sue the city," Sarnoff said.

Regalado, the lone vote against Miami 21 as a commissioner, has placed a "discussion" item on the May 13 agenda.

But Regalado said Thursday he is not asking for a delay in implementation and that the discussion would center on "procedural" questions. Regalado, who has made "transparency" the hallmark of his administration, has pledged to respect the will of the previous commission.

The mayor said any further delay in Miami 21's implementation would raise a host of legal, technical and procedural issues. Sarnoff contends a delay could run afoul of state law and potentially leave the city without an enforceable zoning code.

Commissioners may have other ideas.

Commissioners Richard Dunn and Wifredo Gort, who are facing election in November, said earlier this week that they would support a delay, though they denied being politically pressured. Commissioner Francis Suarez, who has publicly expressed reservations about Miami 21, would not say whether he will support a delay. Commissioner Frank Carollo, the fourth new member since last year's vote, did not return phone calls.

Dunn acknowledged concerns that Miami 21 could become an issue with some of his supporters. "That goes without saying; they kind of give you the eye," he said.

Gort contends his constituents don't know enough about Miami 21. "I believe if you do a survey, 90 percent of the residents don't know the impact of it on their property," Gort said.

On Thursday, though, Dunn's staff said the commissioner is withdrawing a proposed ordinance that would have pushed back Miami 21's effective date until January. Dunn's concerns, which centered on provisions that promote affordable housing, were allayed by city administrators, a spokesman said.

Regalado's position throughout has been unclear.

REACHING OUT

The mayor hired a part-time Miami 21 consultant, attorney Vanessa Acosta, to "reach out" to concerned groups -- including the LBA, the lawyers' e-mails show. Tapanes, the Bercow Radell lawyer, wrote that Acosta was compiling a report for Regalado detailing developers' and lawyers' "ongoing concerns and internal inconsistencies on Miami 21."

But Regalado said this week he's not interested in the LBA's views.

"Not relevant," he called them.

The trigger for the development lawyers' offensive may have been a series of proposed amendments to the code sought by Miami Neighborhoods United, a coalition of activists and homeowners' groups that heavily supported Regalado's election last fall.

In February, the commission voted to delay implementation of Miami 21 until May to allow consideration of the amendments. Several measures, all eventually approved in preliminary votes, would have drastically reduced heights along major corridors like Coral Way and Southwest 27th Avenue from what Miami 21 contemplated. Another would have allowed virtually anyone to challenge building permits in certain districts.

Last week, though, Sarnoff indefinitely tabled the items and more than a dozen other MNU amendments after property owners complained they would paralyze development and illegally take property rights.

But Sarnoff and Regalado left the door open for the amendments to be reconsidered by the commission, apparently alarming developers and their attorneys.

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