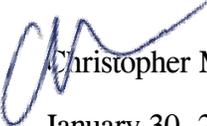




# Memorandum

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visit our website at [www.miamidadeig.org](http://www.miamidadeig.org)

To: The Honorable Carlos Alvarez, Mayor, Miami-Dade County  
The Honorable Chairman Bruno A. Barreiro and  
Members, Board of County Commissioners, Miami-Dade County

From:  Christopher Mazzella, Inspector General

Date: January 30, 2008

Subject: Write-off of Liabilities to the Housing Assistance Loan Trust Fund  
Ref. IG07-84

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The Miami-Dade County Office of the Inspector General (OIG) is currently reviewing certain aspects of the County's use of Documentary Stamp Surtax funds (Documentary Surtax funds).<sup>1</sup> In the course of this review, we examined the justifications cited to absolve the Miami-Dade Housing Agency (MDHA) from its liability to pay back certain monies that it borrowed from the Miami-Dade Housing Assistance Loan Trust Fund, a.k.a. the Surtax Fund. The mechanism to absolve MDHA's liabilities was set forth in paragraph 15 of the settlement agreement (Agreement) between Miami-Dade County and the U.S. Department of Housing and Urban Development (HUD) to resolve Federal litigation relating to HUD's takeover of MDHA and the administration of those programs funded by Federal dollars. The Agreement was approved by the Board of County Commissioners (BCC) on October 2, 2007.

At its core, the Agreement provides for a nine-month temporary possession of MDHA by HUD and the completion of several tasks, as identified in an accompanying Work Plan. However, separate from the Work Plan—in the body of the Agreement—lies the provision which the administration relies upon to allow the write-off of this debt. Paragraph 15 of the Agreement states:

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<sup>1</sup> The OIG's review includes investigations resulting in the arrest of a developer in connection with the purchase of artwork using the proceeds of a \$5 million equity contribution of Surtax funds for the Hometown Station/MDHA headquarters, and the arrest of a second developer who received a loan from MDHA based upon the submission of fraudulent documents. That MDHA loan was, in turn, supported by a Fannie Mae loan, which was then later paid off by MDHA using Surtax funds. Both of these uses of Documentary Surtax funds by MDHA are shown on **Exhibit A**.

The County agrees to take all necessary steps to remove any liability owed by MDHA to the County for the County's loan of Documentary Stamp Surtax. This transaction must be reported in accordance with accounting principles generally accepted in the United States.

At that time, the total "liability" amounted to approximately \$13 million, which was comprised of loans made to MDHA from 2004 through February 2006.

The OIG has two concerns for which we raise the following two questions. First, were the loans, when made, proper? Second, should the loans be forgiven? As for the first issue, it is clear that the use of Surtax funds must conform to the statutory requirements that authorize the taxation and which lay out the permissible and prohibited uses. However, since the funds have already been transferred and expended by MDHA, the OIG will not provide extensive analysis of this concern.

As for the second issue—should the loans be forgiven—we will provide a more detailed analysis of our concerns. In short, we do not agree with the reasons tendered at the October 2<sup>nd</sup> hearing in favor of writing-off the loans of Documentary Surtax funds to MDHA—namely, that they were always intended to be forgivable loans. Lastly, we strongly believe that the rationale subscribed to for absolving MDHA of its loan obligations does not translate into the County's absolution towards its responsibilities as the steward of these special purpose surtax funds.

### *MDHA's Liabilities to the Documentary Surtax Fund*

Florida Statute Section 125.0167(1) provides that "the governing authority in each county ... is authorized to levy a discretionary surtax on documents for the purpose of establishing and financing a Housing Assistance Loan Trust Fund..." Florida Statute Section 125.0167(3) goes on to describe that the revenues collected from the surtax shall only be used by the county:

. . . to help finance the construction, rehabilitation, or purchase of housing for low-income families and moderate-income families, to pay necessary costs of collection and enforcement of the surtax, and to fund any local matching contributions required pursuant to federal law. For purposes of this section, authorized uses of the revenues include, but are not limited to, providing funds for first and second mortgages and acquiring property for

the purpose of forming housing cooperatives. Special consideration shall be given toward using the revenues in the neighborhood economic development programs of community development corporations. No more than 50 percent of the revenues collected each year pursuant to this section may be used to help finance new construction as provided herein. ***The proceeds of the surtax shall not be used for rent subsidies or grants.*** (Emphasis added.)

Section 29-7 of the Code of Miami-Dade County implements the County's Documentary Surtax Program in accordance with Florida Statutes. Specifically, the County's program establishes a Request for Application (RFA) process and requires that "no allocation of documentary surtax funds shall be made except as part of a competitive RFA process" except for loans made directly to homeowners.<sup>2</sup> Moreover, the RFA process must include a public meeting to allow the residents an opportunity to comment on applications and funding requests prior to the presentation of any funding recommendations to the BCC.<sup>3</sup> Needless to say, the transfers discussed herein did not go through a RFA process.

Several published reports and schedules show that Documentary Surtax funds have been transferred to MDHA over the past several years to make up departmental shortfalls. Attention was first drawn to this subject in the Miami Herald's *House of Lies* series. The Miami Herald reported that "[o]ne of the most questionable recipients of surtax money is the Housing Agency itself." The article went on to report that the agency "drew on surtax dollars to cover a \$9.6 million budget shortfall."<sup>4</sup>

In other reports, the Miami-Dade Grand Jury noted that "[m]ore than \$14 million dollars of surtax money was used for non-housing related purposes, specifically to satisfy budget shortfalls within the MDHA, in a manner that appears to violate the law."<sup>5</sup> A forensic review commissioned by HUD lists loans totaling \$28,375,000.<sup>6</sup>

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<sup>2</sup> Section 29-7(G) of the Code of Miami-Dade County.

<sup>3</sup> Section 29-7(H) of the Code of Miami-Dade County.

<sup>4</sup> *The Miami Herald*, July 23, 2006, *House of Lies*.

<sup>5</sup> Final Report of the Miami-Dade County Grand Jury, Fall Term A.D. 2005, August 4, 2006, pg 3.

<sup>6</sup> Department of Housing and Urban Development, *Miami-Dade Housing Agency – Forensic Review and Advisory Services, Final Report – Redacted*, prepared by Deloitte, January 29, 2007.

The OIG has reviewed several schedules prepared by MDHA, with the latest showing that MDHA's liability to the Documentary Surtax Fund, as of 9/30/07, was \$12,760,245.

[**Exhibit A**] The difference between HUD's and MDHA's scheduled liability amounts is the result of MDHA reversing, re-booking or reimbursing the Documentary Stamp Surtax Fund over \$15 million since September 2006. The remaining liability amount of \$12,760,245 is essentially comprised of the following loans:

**TABLE 1 Loans/Transfers Comprising MDHA Liability**

Date	Amount	Purpose/Description (source: MDHA schedule)
June 2004	\$3,000,000	Surtax loan to MDHA - \$900K for Private Rental and \$2.1M for Public Housing Vacancy Reduction (rehab units) *Ref. Per Mayor's Budget Memo dated 9/16/03
September 2004	\$775,000	Surtax advanced Private Rental's indirect cost payment
February 2006	\$9,600,000	Loan to MDHA for vacancy reduction (rehab units) *Ref. R-164-06

*The Administration's Basis to Absolve MDHA of Its Liabilities*

Delving into the second issue of loan forgiveness, we note that paragraph 15 of the Agreement was not highlighted in the County Manager's recommendation memorandum accompanying the Settlement Agreement. However, there was a short discussion of this particular requirement during the October 2<sup>nd</sup> BCC hearing on the item.

It was explained by County staff that at present there is approximately \$13 million in outstanding loans. The debt, or some part of it, has been carried on the agency's books as a liability since 2000. The loans are carried on the County's Documentary Stamp Surtax Fund as a receivable from MDHA, and correspondingly, it is carried on the agency's books as an accounts payable back to the Surtax Fund. The County Manager stated that regardless of the "accounting treatment" of these funds, the transfers of funds were always intended to be "forgivable loans" in that there was no realistic expectation that MDHA would be able to return the monies to the Fund. It was further explained that the "loans" to MDHA were for covering gaps in the agency's budget due to the decreasing availability of federal public housing dollars, and that given the enormous demand for public housing units, it was never expected that MDHA would have a budget surplus that it could use to repay the Surtax Fund.

During the October 2<sup>nd</sup> hearing, there was no explanation describing which specific loans or transfers make up MDHA's \$13 million liability.<sup>7</sup> As mentioned earlier, we reviewed several MDHA schedules and notations, reflecting transfers between MDHA and the Surtax Fund, and have determined that the outstanding liability total of \$12,760,245 is primarily comprised of the three loans identified in Table 1.

For the two larger transfers—\$3 million in 2004 and \$9.6 million in 2006—we failed to uncover any evidence that would suggest that the loans would not or were never intended to be repaid. In fact, for each loan there was significant attention paid—at least via written memorandums and supporting details—as to the necessity of repaying the loans to support the Fund's cash flow. The OIG believes the necessity of supporting the Fund's cash flow will be even more important in the coming years given the significant decline in the County's real estate market. (See **Exhibit C** at page 4 of 9 for forecasts depicting future cash flows to the Fund. These estimates were prepared by the County in 2005 before the real estate market down turn.)

The \$3 million loan, which was transferred in June 2004, was addressed in a chart entitled *MDHA Budget Issues* and which was attached to a memorandum requesting the actual transfer of funds. [**Exhibit B**] Specific to the issue of repayment, the chart's section reads:

Impact on Surtax—loss in interest of about \$10,000; if all Surtax funds are expended, then the loss of \$3 million is the equivalent of 75 single family or 3 multi-family loans not being done; timely repayment will eliminate any negative impact.

Likewise, for the \$9.6 million loan made in February 2006, the loan request was first proposed to the Affordable Housing Advisory Board during its meeting on December 14, 2005. A former MDHA official is on record saying:<sup>8</sup>

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<sup>7</sup> On March 6, 2007, in connection with a *Resolution Urging [HUD] to Leave Control of Miami-Dade County's Federally Assisted Housing Programs with Miami-Dade County ...*, a discussion ensued regarding the advances paid from the Surtax Fund to MDHA to cover shortfalls in Federal funding. Both the June 2004 \$3 million loan and February 2006 \$9.6 loan were mentioned. It was also suggested during this discussion that the loans were forgivable and the County would not be liable. (Final Official Meeting Minutes, Board of County Commissioners, March 6, 2007, Agenda Item 11A45, page 76 of 89.)

<sup>8</sup> Transcript of Affordable Housing Advisory Board Meeting of December 14, 2005, pg. 5.

We are asking the Board to endorse a resolution that we want to present to the Board of County Commissioners in January, requesting a loan from the Surtax Program to the Housing Operation to make up for a shortfall and one-time revenue that we did not get last fiscal year.

There's enough cash in the Surtax account to avoid any cash flow problems, and also sufficient revenue coming in this year and the succeeding years, we believe, along with General Obligation Bond money, that will be available in the next ten to fifteen years to cover the shortfall. In addition, we'll repay the loan, one million a year, for the next ten years from the non-subsidized revenue.

The \$9.6 million loan was placed before the BCC on February 7, 2006.<sup>9</sup> The County Manager's recommendation memorandum contained a table that forecasts MDHA's non-subsidized revenue up to the year 2015, thereby demonstrating MDHA's ability to pay back the loan—an annual \$1 million repayment to the Surtax Fund for the next ten years. Furthermore, the actual wording of the resolution states the intention to repay the Surtax Fund. **[Exhibit C]**

. . . this Board approves the interdepartmental transfer of \$9.6 million from Surtax funds for public housing and Section 8 operations for fiscal year ending September 30, 2005, to be repaid with income from non-subsidized MDHA sources over a period of ten years.

The OIG cites these documents to counter the proposition that these loans were always intended to be "forgivable." On the contrary, express statements were made specific to MDHA's repayment. Moreover, the bulk of the liability (\$9.6 million) had been approved only 20 months earlier. This was not an old debt that had been carried on the books for several years, and which now required cleaning up. This was not a debt that resulted from decisions made in 2000, where the actors are no longer around. And this is not a debt that we believe should be forgiven, especially when the transfers to MDHA were for purposes inconsistent with the state statute and county code's authorized uses for this type of revenue.<sup>10</sup>

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<sup>9</sup> Agenda Item No. (G)(1)(D), approved as R-164-06, Legislative File No. 053572.

<sup>10</sup> The OIG acknowledges a County Attorney's Office Opinion from 1987 (No. 87-6) that opines that documentary surtax funds may be used towards public housing, as "[t]here is no distinction in the statutes which would require that surtax funds only be used for private housing." **[Exhibit D]**

## ***Removing MDHA's Liability Should Not Remove the County's Obligation to Repay***

Throughout these discussions, the revenues collected from the imposition of this discretionary tax are commonly referred to as “surtax,” but these revenues are officially what make up the “Miami-Dade Housing Assistance Loan Trust Fund” (Housing Trust Fund).<sup>11</sup> As the term “trust fund” implies, there are explicit guidelines for what the money can be used for, how the funds may be distributed, and the process for making funding recommendations. This trust fund specifically prohibits these funds to be used for rent subsidies or grants.

MDHA's inability to repay the Trust Fund is not at all similar to an individual recipient of a housing assistance loan who is unable to pay back the loan. It is also not similar to a situation where an insolvent developer has declared bankruptcy and has no ability and no assets to pay back a loan. In those situations, the County might have to rely upon liens, judgments, and other recorded instruments to protect its financial interests—but that is not the case here.

We fail to understand how removing “any liability owed by MDHA to the County for the County's loan of Documentary Stamp Surtax” gets the County off the hook for repaying the Housing Trust Fund. It may get MDHA off the hook in that it will be able to wipe these debts from its books. But there is nothing in paragraph 15 of the Agreement that authorizes or allows the Trust Fund to wipe \$13 million in receivables off of its balance sheet. Even the express wording in paragraph 15 suggests that MDHA's liability is to the County and not the Trust Fund. In fact, the County is the borrower (“the County's loan”) and it borrowed the money on behalf of one of its agencies—MDHA. And as such, the OIG believes it is up to the County to repay the borrowed funds back to the Housing Trust Fund, a.k.a. the Surtax Fund, so that those funds will again be available to support allowable projects and programs.

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However, the OIG respectfully disagrees with this opinion as well as the assessment that the County can allocate money to itself directly. Had this been the case, why were these allocations called “loans” and actually booked on the respective ledgers as receivables and liabilities? It is the OIG's opinion that the transfers were inconsistent with the statutory authorities. See also the *Final Report of the Miami-Dade County Grand Jury*, previously cited in footnote 5, and the *Review of the Miami-Dade Housing Agency's Administration of the Public Housing and Housing Choice Voucher Programs, Final Report*, prepared by the Office of Public and Indian Housing and the Real Estate Assessment Center, April 24, 2007, pg. 4 (“Surtax funds were used to subsidize the Section 8 program, resulting in what HUD believes are ineligible uses of those funds under Florida law”).

<sup>11</sup> Section 29-7(3) of the Code of Miami-Dade County.

Lastly, we do not believe that the BCC's approval of the HUD settlement agreement automatically "writes-off" \$13 million of receivables from the Housing Trust Fund's balance sheet. Paragraph 15 states: "The County agrees to take all necessary steps ..." and these steps would seem to be separate and subsequent to the approval of the HUD settlement agreement. In short, the BCC, as the ultimate trustee of the fund, would have to separately authorize this action—the writing-off of \$12,760,245 from the Housing Trust Fund's balance sheet.<sup>12</sup>

### *In Conclusion*

Removing MDHA's liability should not result in the Trust Fund being shortchanged \$13 million. The OIG strongly believes that the County needs to find a way to pay back this money to the Trust Fund. These funds should be restored and made available for their intended and authorized purposes. Such action is required to ensure the government's proper administration of taxes levied on its citizens, particularly with respect to surtaxes, which are levied for special and specific purposes.

cc: George M. Burgess, County Manager  
Robert A. Cuevas, County Attorney  
Dennis Morales, Chief of Staff, Office of the Mayor  
Cynthia Curry, Senior Advisor to the County Manager  
Rachel Baum, Director, Miami-Dade Finance Department  
Cathy Jackson, Director, Department of Audit and Management Services  
Charles Anderson, Commission Auditor  
The Hon. Katherine Fernandez Rundle, State Attorney, Eleventh Judicial Circuit  
Clerk of the Board (copy filed)

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<sup>12</sup> Earlier in this memorandum, the OIG acknowledged County Attorney Opinion No. 87-6 (see footnote 10). While we expressed our disagreement that the County could allocate money to itself—it would not be "considered a grant, because the funds are given to the entity entitled to make the grant"—this opinion does, however, specifically state that the "[u]se of funds in this manner is not presently envisioned in the program developed by existing ordinances of the [BCC]. Therefore, such procedures should be set forth in an ordinance enacted according to the requirements of the Documentary Surtax Act..." (See **Exhibit D** previously referenced.) Likewise, it is the OIG's position that any loan forgiveness or reverse ledger entry requires subsequent and separate BCC action as the current County Code provisions does not support such uses of the funds.

**Miami-Dade Housing Agency  
Funds Due To and Due From Documentary Stamp Surtax Account**

Purpose/Description	Date	Amount	Reference
Reimbursement due from the Office of Community and Economic Development	Sep-00	\$270,562	
Charge applied for MDHA building rent due to Surtax - rent for Accounting and Surtax Department same building (see related credit April 03 - net 150,254)	Apr-01	\$735,142	
Surtax loan to MDHA - used to rehab and turn PH units	Oct-02	\$5,000,000	(1)
Payment to refund rent overcharged to Surtax	Apr-03	(\$584,888)	
Surtax used for Equity payment to Bank of America re: Hometown Station -Real Estate Transaction	Nov-03	\$5,000,000	R-747-03
Advance from Surtax to MDHA for repayment due to Fannie Mae- Fannie Mae Line of Credit for Developer Loans for construction of affordable units	Dec-03	\$5,000,000	R-1453-97
Surtax loan to MDHA - \$900K for Private Rental and \$2.1 M for Public Housing vacancy reduction (rehab units) (partial net of A/R 11/07)	Jun-04	\$3,000,000	(2)
Surtax advanced Private Rental's indirect cost payment	Sep-04	\$775,000	
Loan to MDHA for vacancy reduction (rehab units)	Feb-06	\$9,600,000	R-164-06
Reversal of Hometown Station advance, determined not to be a loan to MDHA- reference real estate transaction Nov. 03	Sep-06	(\$5,000,000)	
Fannie Mae payments to date and balance of loan receivable transferred to Surtax account - references developer loans Dec 03	Sep-06	(\$5,000,000)	
Private rental repayment 4/07		(\$150,254)	
Surtax funds repaid by HFA and held in the Surtax fund 070 in MDHA bank account (balance of Surtax funds held in County's bank account)	Sep-06	\$5,036,764	(3)
Transfer 5 17 07		(\$10,036,764)	
Account Receivable moved by Finance Department to another department		(\$270,562)	
A/R from Surtax on sale of mortgage portfolio in LRPH - net against LRPH A/P 11/07 effective 9/30/07		(614,755)	
<b>Total due to Surtax as of 9/30/07</b>		<b>\$12,760,245</b>	
		1,675,000	PRH (\$8)
		\$11,085,245	Public Housing

<b>PRH</b>
\$775,000
900,000.0
<b>\$1,675,000</b>

- (1) Transfer requested in 10/17/2002 memo from Rene Rodriguez to advance cash to cover shortfall in Public Housing subsidy and anticipated reimbursements for Shelter Plus Program and HOPWA Program.
- (2) Per Mayor's Budget Memo dated 9/16/03
- (3) Surtax funding originally disbursed to HFA under R-376-01. Balance of funds was returned to MDHA in November 2004 and is on deposit in the Surtax fund 070 in MDHA's bank account, not in the main account that holds the bulk of Surtax dollars.

Schedule Prepared By MDHA



## MEMORANDUM

TO: Jennifer Glazer-Moon, Director Designate  
Office of Strategic Business Management

DATE: June 3, 2004

Rachel E. Baum, Director  
Finance Department

FROM:   
Alfonso K. Brewster  
Acting Director  
Miami-Dade Housing Agency

SUBJECT: Transfer of \$3 million to  
MDHA

We are requesting the transfer of \$3 million of Surtax funds, as explained below, to the Miami-Dade Housing Agency's (MDHA) account at Wachovia Bank, N.A. account number 2696206699012. The \$3 million will fund the services reinstated to MDHA by the Board of County Commissioners at the final budget hearing last September. This recommendation was contained in the Mayor's budget memo between the first and second budget hearings last September (see attachment 1).

The accompanying memo to the County Manager's Office explains the purpose for the transfer (see attachment 2). These funds allow us to retain approximately 30 part-time positions in public housing to maintain current levels of vacancy reduction unit preparation, including materials needed to prepare the units for occupancy. It also enables us to keep 15 part-time positions in the Private Rental Housing Division to maintain the lease up rate at its highest levels in many years. Further, this advance continues funding for services to the disabled at our public housing facilities.

We appreciate your assistance in our efforts to continue to provide a high level of services to our customers.

### Attachments

c: David M. Morris, Director, Office of Strategic Business Management  
Rudy Perez, Acting Deputy Director, MDHA  
John Topinka, Director, Finance and Administration, MDHA

38849



MEMORANDUM

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Tony E. Crapp, Sr.  
Assistant County Manager

DATE: September 16, 2003

FROM: Rene Rodriguez  
Director  
Miami-Dade Housing Agency

SUBJECT: Surtax Loan

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Per your request, attached is a summary in bullet form of current MDHA budget issues, the scope of the problem and suggested solutions.

If you have any further questions, please let me know.

## MDHA Budget Issues

### Lost Revenue from USHUD Totaling almost \$8 million

- \$3 million reduction in public housing subsidy
- \$2.6 million loss of Drug Elimination Grant (DEG), \$1.6 million for police and \$1 million for support services
- \$300,000 in administrative revenue to at 25% cut in the Capital Fund Program (CFP)
- \$2 million cut in CFP for rehabilitation

### Payments to General Fund in FY 03-04 Budget Totaling \$2.368 Million

- \$981,000 administrative reimbursement; \$400,000 for the County Attorney; \$803,000 for IT support; \$88,000 for the County Manager; \$85,000 for MDTV; \$11,000 for Office of Legislative Analysis

### Increased Uncontrollable Expenses Totaling \$4 Million

- Health insurance increases--\$1 million
- COLAs and merit increase--\$3 million

### Reductions in Service as a Result of Revenue-Expense Gap

- Elimination of dedicated police services (15 officers and 2 civilian staff-filled)
- Elimination of most social service programs such related to DEG and elderly (14 full-time and 3 part-time filled positions in MDHA;); this includes closing of two computer learning centers heavily used after school by children
- Reduction in maintenance and related services in public housing, including positions related to the vacancy reduction program, a reduction in materials, overtime, and temporary employees (56 vacant full-time positions; 28 filled part-time positions)
- Reduction in support staff for personnel, applicant and leasing, finance, budget, compliance, facilities and MIS (15 vacant full-time positions and; 7 vacant part-time positions)
- Reduction in Section 8 program of 19 full-time vacant positions and 24 part-time positions, of which 15 are filled; plus overtime and temporary agency personnel

### Proposed Solution \$3 Million Surtax Loan

- Fill sufficient maintenance, carpenter, custodial and support staff to keep vacancy reduction program in progress (approximately \$1 million—30 positions); purchase materials for fixing vacant units (\$1 million for about 200 units), continue service to landlords and clients in the Section 8 program by maintaining the lease up rate close to 100 percent (15 positions) and continue services to the elderly disabled in public housing (\$120,000)
- Impact on Surtax--loss in interest of about \$10,000; if all Surtax funds are expended, then the loss of \$3 million is the equivalent of 75 single family or 3 multi-family loans not being done; timely repayment will eliminate any negative impact

### Additional \$2 Million

- Retain slightly reduced but dedicated police presence (\$1.2 million)
- Restore social service programs affected by loss of DEG (\$800,000; 15 staff)



6-3-2004

Mr. Scott Kreiger  
Wachovia Bank, N.A.  
1950 Hillsboro Blvd.  
Deerfield Beach, FL 33442

Re: Miami-Dade General Operating Account #2696206696688

Dear Mr. Kreiger:

As per Section 136.06 of the Florida Statutes, you are hereby authorized and requested to debit the above-mentioned account in the amount of \$3,000,000.00 and transfer internally for credit to our demand account in your bank entitled:

Miami-Dade County, Florida  
Miami-Dade Housing General Operating  
Account #2696206699012

Thank you for your cooperation in handling this transfer of funds.

Sincerely,

Alphonso K. Brewster  
Acting Director  
Miami-Dade Housing Agency

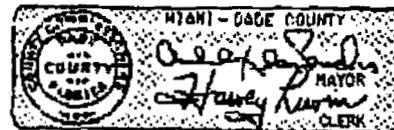
Blanca Padron  
Controller  
Finance Department

- c: Gisella D. Guth, Director, Cash Management, Finance Dept.
- Lourdes Julien, Bank Reconciliation Supervisor, Finance Dept.
- John P. Topinka, Director, Finance and Administration, MDHA

OFFICE OF THE DIRECTOR

1401 NW 7th Street  
Miami, FL 33125-3601  
(305) 644-5100  
Fax (305) 541-6716

38849



www.co.miami-dade.fl.us/housing



# Memorandum



Date: February 07, 2006

To: Honorable Chairman Joe A. Martinez, and  
Members Board of County Commissioners

Agenda Item No. 8(G)(1)(D)

From: George W. Burgess  
County Manager

Subject: Resolution Authorizing the Intradepartmental Transfer of \$9.6 million of Surtax Funds to Public Housing and Section 8 Operations for FY 2005 to be Repaid with Revenues from Non-subsidized Miami-Dade Housing Agency (MDHA) Income in Ten Years

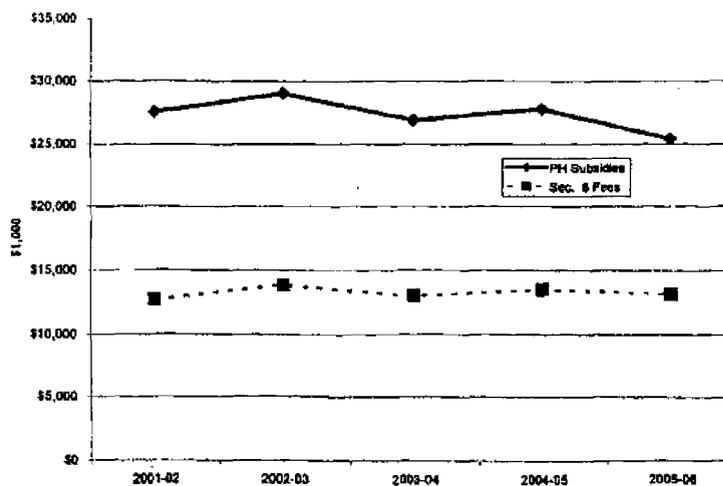
## RECOMMENDATION

It is recommended that the Board of County Commissioners (BCC) approve an intradepartmental transfer of \$9.6 million of Surtax funds to public housing and Section 8 operations for the fiscal year ending September 30, 2005.

## BACKGROUND

Over the past five years, MDHA's public housing operating subsidy has declined by almost 8 percent (not including the loss of the \$2.6 million Drug Elimination Grant in 2003), and revenue from its Section 8 administrative fees has been flat (See chart 1). Furthermore, for the first time in 2005, the United States Department of Housing and Urban Development (USHUD) through

Chart 1. Major Federal Revenues



Congress has placed limits on housing assistance payments (HAP), the federal rent subsidy to landlords. Based on MDHA records, the federal government has under-funded MDHA by almost \$3 million for HAP. MDHA has requested full HAP funding from USHUD but presently has not received a response to this request.

During this same time when net federal subsidies declined by \$1.6 million, MDHA's security costs increased by almost \$2 million, costs for certain County support services increased by over \$1 million and personnel costs—merit raises, COLAS and insurance—rose by \$4.6 million even with reduced staffing levels in FY 2005-06. The net impact of these items alone equates to a gap of \$9.2 million.

In order to maintain service levels during these years—particularly vacancy reduction efforts, MDHA budgeted one-time revenue from the sale of property and the single family loan portfolio to make up for inadequate federal funding and mandated cost increases. It is worth noting that over this five-year period, MDHA reduced its vacancies in public housing by almost 1,000 units and improved the lease up rate in the Section 8 program from 89 percent to 100 percent, or almost 1,500 vouchers—achievements that could not have been accomplished without one-time revenue.

For FY 2004-05, MDHA budgeted \$11.953 million in one-time revenue, but only \$400,000 from the sale of homes has materialized. The budget assumed \$2.4 million in proceeds from the sale of homes as part of MDHA's homeownership program, leaving a \$2.013 million shortfall for in FY 2004-05. The remainder of these sales should occur in FY 2005-06.

A second source of planned one time revenue (\$3.5 million), the sale of the multi-family portfolio, will not occur, based on the advice of the County's financial advisor, PFM Group, which deemed this asset as generally unmarketable due to the steep discount needed to make a sale. The final one-time revenue, approximately \$6.1 million, was to come from the sale of two unsubsidized apartment complexes owned by MDHA, Gateway and Ingram Terrace. While these apartments are not linked to direct federal subsidies, most residents are low- to moderate-income and use Section 8 vouchers for rent. It is now recommended that these properties be retained in order to ensure the preservation of existing affordable housing in the county.

MDHA initiated spending cuts and hiring freezes when it learned that the budgeted one-time revenue would not be realized, but this was late in the fiscal year. Thus, it was only able to reduce the gap by \$2.7 million. The request for the \$9.6 million intradepartmental transfer will be used to balance the FY 2004-05 budget and to pay final year end invoices. MDHA did not exceed its budget spending authority for FY 2004-05 and therefore does not need a year end budget amendment. This action will make up for a shortfall in revenue only.

The impact of this action on MDHA's loan programs should be negligible for several reasons. First, Surtax revenue has been growing significantly over the past six years. In 2001, total revenue was \$17 million. For fiscal year 2005, actual revenue totaled \$48.7 million. We assumed a lower level of revenue (\$42 million) for the current fiscal year.

Second, even though each year through the request for approval (RFA) process, the Board of County Commissioners approves project funding that exceeds available cash, there is sufficient cash flow within the program that this action should not adversely impact any approved project because projects take multiple years to complete. Funds are drawn over a period of years not necessarily the year the project is awarded. For example, over the past three years, in only 2 of the thirty-six months did cash in the Surtax account dip below \$9.6 million. Third, this program also uses funds from SHIP and HOME sources for its loan activities and these will not be affected. Fourth, general obligation bond funds (\$137.7 million) are also allocated over the next 15 years for various affordable housing programs. Finally, MDHA will repay this transfer with revenue from non-subsidized housing programs over ten years, which will reduce the impact on cash flow relatively quickly.

Table 1 below shows a ten-year history of Surtax revenue. This revenue includes repayments for loans that have been closed out. Table 2 represents a forecast of future revenue, expenses and net cash flow for the Surtax program over the next ten years. The carryover figure for 2006 is actual and the revenue figure for 2006 is the budgeted amount. Future year revenue grows by 2.5 percent and includes the \$1 million repayment. The expenditure estimate for 2006 reflects the \$9.6 million loan and grows at 3 percent over the remaining years. Net cash flow from each year is shown as carryover for the next year.

Table 1. History of Surtax Revenue	
Year	Revenue
1996	\$12,415,272
1997	11,964,632
1998	17,130,387
1999	15,972,647
2000	18,678,438
2001	14,759,191
2002	19,167,856
2003	22,658,488
2004	34,032,787
2005	48,770,968

Table 2: Forecast Net Cash Flow in Surtax Program (\$ in millions)

	Carryover	New Revenue	Total Available	Estimated Expenses	Net Cash Flow
2006	\$48.001	\$42.100	\$90.100	\$59.000*	\$31.100
2007	31.100	44.050	75.150	49.000	26.150
2008	26.150	46.151	72.301	50.470	21.831
2009	21.831	48.305	70.136	51.984	18.152
2010	18.152	50.513	68.665	53.544	15.121
2011	15.121	52.775	67.897	55.150	12.747
2012	12.747	55.095	67.842	56.804	11.037
2013	11.037	57.472	68.509	58.509	10.001
2014	10.001	59.909	69.910	60.234	9.646
2015	9.646	62.407	72.053	62.072	9.981

\*Assumes loan expense of \$9.6 million.

Revenue growth is based on 2.5% per year and expenditure growth reflects a 3% increase per year.

Table 3 shows revenue generated by non-subsidized housing with four years of history and a forecast for the next ten years. There is sufficient cash flow from these sources to make the annual \$1 million repayment to Surtax.

Table 3: History and Forecast of Non-subsidized MDHA Revenue

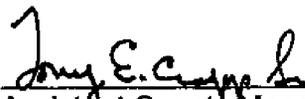
2002	\$707,652	2009	1,379,000
2003	752,481	2010	1,420,000
2004	997,934	2011	1,463,000
2005	1,127,767	2012	1,507,000
2006	1,200,000	2013	1,552,000
2007	1,300,000	2014	1,599,000
2008	1,339,000	2015	1,647,000

The current budget for MDHA no longer relies on one-time revenue, except for the remainder of planned home sales, and is balanced based on best estimates of recurring revenue and declining federal subsidies for next fiscal year. The planned home sales are part of HUD's Low Rent Housing Homeownership Opportunity Program, also known as Turnkey III, for the

Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners  
Page 5

remaining 22 homes in the Heritage Village development. Proceeds from the sale of these homes, anticipated to occur in spring 2006, are the only one-time revenues in MDHA's current budget. Additionally, MDHA reduced full-time staffing by 84 positions and part-time positions by 48 and cut back a number of other line items in order to balance the budget based on recurring revenues. Service impacts of these reductions have been explained in other forums to the Board of County Commissioners, including the annual budget book.

Finally, the Affordable Housing Board unanimously endorsed this action at its meeting on December 14, 2005.

  
\_\_\_\_\_  
Assistant County Manager  
Tony E. Crapp, Sr.

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**MEMORANDUM**  
(Revised)

**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**DATE:** February 7, 2006

**FROM:**   
Murray A. Greenberg  
County Attorney

**SUBJECT:** Agenda Item No. 8(G)(1)(D)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 8(G)(1)(D)  
02-07-06

RESOLUTION NO. \_\_\_\_\_

RESOLUTION AUTHORIZING THE INTRA-  
DEPARTMENTAL TRANSFER OF \$9.6 MILLION FROM  
SURTAX TO PUBLIC HOUSING AND SECTION 8  
OPERATIONS WITH REPAYMENT FROM NON-  
SUBSIDIZED INCOME SOURCES

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves the intradepartmental transfer of \$9.6 million from Surtax funds for public housing and Section 8 operations for fiscal year ending September 30, 2005, to be repaid with income from non-subsidized MDHA sources over a period of ten years.

The foregoing resolution was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

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Joe A. Martinez, Chairman  
Dennis C. Moss, Vice-Chairman

Bruno A. Barreiro  
Audrey M. Edmonson  
Sally A. Heyman  
Dorrin D. Rolle  
Katy Sorenson  
Sen. Javier D. Souto

Jose "Pepe" Diaz  
Carlos A. Gimenez  
Barbara J. Jordan  
Natacha Seijas  
Rebeca Sosa

The Chairperson thereupon declared the resolution duly passed and adopted this 7th day of February, 2006. This Resolution and contract, if not vetoed, shall become effective in accordance with Resolution No. R-377-04.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

HARVEY RUVIN, CLERK

Approved by County Attorney as  
to form and legal sufficiency. 

Terrence A. Smith

By: \_\_\_\_\_  
Deputy Clerk

ATTACHMENT **A**



*"Delivering Excellence Every Day"*

**MIAMI-DADE HOUSING AGENCY  
Affordable Housing Advisory Board (AHAB)  
December 14, 2005  
1:00 p.m.  
*Agenda***

**Luis Rabell –Chairperson**

- Roll Call
- Opening Remarks

**Action Items**

- Tax Relief and Affordable Housing Manager's Report

**Presentation**

- Internal Agency Loan
  - Presentation made by John Topinka

- **Next Meeting Date: January 25, 2006**

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MEMORANDUM  
 COUNTY ATTORNEY'S OPINION NO. 87-6

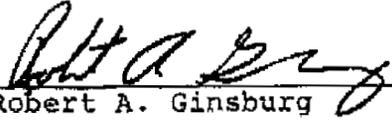
TO	DEWEY KNIGHT Acting County Manager	DATE	October 21, 1987
		SUBJECT	Use of Surtax Revenues to Renovate Public Housing
FROM	Robert A. Ginsburg County Attorney		

You have asked whether surtax revenues can be committed for renovation of public housing units, and if so, whether future surtax revenues to be received through 1993 can be committed up front.

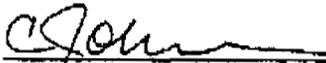
We answer both questions affirmatively. Under present law, surtax funds shall only be used for the purpose of financing the construction, rehabilitation or purchase of housing for low and moderate income families. Financing of construction or rehabilitation of rental apartments, as well as home purchases, is permitted under present law. Documentary Surtax Act, Ch. 83-220, 1984 Fla. Laws 1126 (as amended). There is no distinction in the statutes which would require that surtax funds only be used for private housing.

Please be further advised that surtax funds can be pledged as revenues in a bond issue, or allocated to the County directly. The latter is not considered a grant, because the funds are being given to the entity entitled to make the grant. Use of funds in this manner is not presently envisioned in the program developed by existing ordinances of the Board of County Commissioners. Therefore, such procedures should be set forth in an ordinance enacted according to the requirements of the Documentary Surtax Act, a copy of which is attached hereto.

Finally, anticipated surtax funds may be pledged now for public housing renovation, if it is necessary to commence rehabilitation and pay for it from the funds as they are collected. See Cook vs. Rochford, 60 So. 2d 531 (Fla.1952).

  
 Robert A. Ginsburg  
 County Attorney

Prepared by:

  
 Cynthia Johnson  
 Assistant County Attorney

RAG/CJ/ib

cc: Honorable Mayor and Members  
 Board of County Commissioners  
 Budget Director