



Town of Miami Lakes Memorandum

To: Honorable Mayor and Town Councilmembers

From: Ed Pidermann, Town Manager, and
Raul Gastesi, Town Attorney

Subject: Reimbursement of Building Fees

Date: May 19, 2020

Recommendation:

From March 30, 2020 through April 10, 2020, in the wake of the COVID-19 emergency closure of Town Hall, the Town's building department ceased all activity, including inspections, plan review and permit applications. Consequently, several homeowners resorted to outside professionals to conduct their building inspections. A pre-requisite to obtaining a building permit is paying a permit fee. The permit fee is used for, among other things, to pay for building inspection(s). As such, homeowners during the building department's closure, who obtained the services of a private inspector, may have paid double for their building inspection. During the April 21, 2020 Town Council Meeting, the Town Council instructed the Town Attorney to research the possibility of reimbursing a portion of the permit fees paid by homeowners in residential properties, not built within a development, in order to mitigate the additional amount spent on the certification services of a licensed professional, like an Engineer or Architect. In the case of homeowners using this "Certification" process, Town staff must still perform work after receiving the Certification to complete the inspection process.

Florida Statute § 553.80(7)(a), lays out the Town's ability to create a schedule of fees, which are to be used exclusively for carrying out the Town's responsibility in enforcing the Florida Building Code. The Statute requires the Town to create and submit to the State an operating budget. This section requires that the Town provide fee structure for allowable activities and provide consideration for refunds for services provided by Florida Statute § 553.791, "but not provided by the local government." This is the only instance where refunds are discussed. While they are not expressly permitted, they are not prohibited. Additionally, the statute contemplates the possibility of refunds. Notwithstanding, the Statute does provide that all fees and costs must be "consistently applied." Accordingly, if applied to one homeowner, it should be applied to a home developer as well.

Florida Statute § 553.791, provides for the use of private providers to perform traditional building department inspections and review, provided the private provider meets the licensing and liability insurance requirements. This process is different from Town's consideration of an Architect or Engineer's certification.

Based on a review of applicable law, it is possible to provide an equitable refund of a portion of their inspection to residential homeowners who may have paid a professional for an inspection related to a Town permitted project. This refund amount should be offset by the cost of Town staff to complete and process the Certification once submitted.