



RESOLUTION # 2025-39

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF WEST MIAMI REGARDING QUASI-JUDICIAL PROCEEDINGS; PROVIDING PROCEDURES FOR DISCLOSING *EX PARTE* COMMUNICATIONS FROM PARTIES AND PARTY-INTERVENORS IN QUASI-JUDICIAL PROCEEDINGS OF THE CITY COMMISSION AND CITY BOARD IN WHICH THE DECISION MUST BE BASED SOLELY ON SUBSTANTIAL COMPETENT EVIDENCE IN THE HEARING RECORD; AND PROVIDING FOR AN EFFECTIVE DATE. (*Sponsored by Administration*)

WHEREAS, decisions in quasi-judicial proceedings of the City Commission and City Board must be based solely on substantial competent evidence in the hearing record, thus excluding *ex parte* communications; and

WHEREAS, *ex parte* communications with City Commissioners and City Board Members are outside the record and cannot be used in any way as a basis for a quasi-judicial decision; and

WHEREAS, the State of Florida has authorized municipalities to adopt by Resolution procedures for ensuring that *ex parte* communications related to quasi-judicial proceedings are not prejudicial to the proceedings *per se*;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WEST MIAMI, FLORIDA:

Section 1. The above-stated "whereas" clauses are ratified and confirmed as being true and correct and are incorporated into this Resolution.

Section 2. *Ex Parte* Communications by Parties and Party-Intervenors in Quasi-Judicial Proceedings.

(a) There is a presumption of prejudice *per se* deriving from any *ex parte* communications by a party or party-intervenor to a City Commissioner or Board Member in connection with a quasi-judicial matter, unless the Commissioner or Member adheres to the following procedures, which adherence removes the presumption of prejudice pursuant to Florida statute 268.0115:

- (1) The subject of the *ex parte* communication and the identity of the person, group or entity with whom the communication took place is disclosed prior to or at the hearing and made a part of the record.
 - (2) Any *ex parte* written communication shall be disclosed prior to or at the hearing and made part of the record.
 - (3) Any site visits made or expert opinions received shall be disclosed prior to or at the hearing and made part of the record.
- (b) The disclosures required herein are intended to ensure that persons who have opinions contrary to those expressed in the *ex parte* communication(s) are given a reasonable opportunity to refute or respond to the communication(s).

Section 3. *Ex Parte* Communications by Persons Who Are Not Parties or Party-Intervenors in Quasi-Judicial Proceedings.

- (a) Persons who are not parties or party-intervenors may communicate with City Commissioners and Board Members at any time in connection with a pending quasi-judicial issue.
- (b) Commissioners and Members need not disclose such communications. Such communications may not be used or relied upon in any fashion in making the quasi-judicial decision, which decision must be based solely on substantial competent evidence in the hearing record.

Section 4. This Resolution shall take effect immediately upon its passage and adoption by the City Commission and signature by the Mayor.

PASSED and **ADOPTED** on Second Reading this 4th day of June, 2025.

APPROVED:



ERIC DIAZ-PADRON, MAYOR

ATTEST:



**ANNERY GONZALEZ, MMC
CITY CLERK**

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:


DEXTER W. LEHTINEN, CITY ATTORNEY

ROLL CALL VOTE:

This Resolution was offered by Vice-Mayor Chavez, Jr, who moved its adoption. The motion was seconded by Commissioner Suarez. The vote was as follows on Second Reading:

MAYOR ERIC DIAZ-PADRON	<u>Y</u>
VICE-MAYOR IVAN CHAVEZ, JR.	<u>Y</u>
COMMISSIONER JUAN M. BLANES	<u>Y</u>
COMMISSIONER GUSTAVO J. CEBALLOS	<u>Y</u>
COMMISSIONER LUCIANO L. SUAREZ	<u>Y</u>