BROWARD COUNTY FLORIDA
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MEMORANDUM

DATE: June 3, 2016

TO: Board of County Commissioners

FROM: Alan J. Cohen, Assistant to the County Administrator

SUBJECT: **Consumer Protections Incorporated in the Proposed PACE Resolution**

Amongst the issues considered by the County negotiation team working on the proposed Property Assessed Clean Energy (PACE) resolution on the June 7, 2016 Regular Agenda (Item #71), residential property consumer protections were high on the list (the working presumption is that commercial property owners were better able to determine the financial viability of moving forward with a PACE project on their property.) This memo describes in more detail those protections.

The history to date for PACE has been a good one. We have found no evidence of the proposed PACE providers committing fraud or otherwise taking advantage of consumers. The due diligence they perform prior to authorizing a PACE funding to a property owner is extensive and the default rate is remarkably zero, as compared to a national average of 1.77%. Nonetheless the County team wanted to take extra steps to ensure that all property owners in Broward County, particularly those most financially vulnerable, were protected to the greatest extent possible.

The resolution as written offers several alternative standards for with which a PACE provider can comply. The first place limits on the amount of PACE funding that a property owner can acquire based on the value of their home (5% of property fair market value (FMV)) and their gross income (4% of property owner annual gross income). Fair market value shall be that value determined by the Broward County Property Appraiser or by a credentialed commercial property appraiser or licensed realtor. While property owners at any point on the socioeconomic scale would need to carefully consider the merits of a PACE project and its associated costs, our focus was initially on lower income property owners, particularly those on fixed incomes. For example, there are 22,325 seniors in Broward County that have qualified for the Senior Exemption (property tax exemption). To qualify for this exemption in 2016, you must be 65 years old and make no more than $28,482. Of the 22,325 seniors who qualify, 18,879 own their home outright (no mortgage) while 3,446 are still making mortgage payments.

The 5% limit of total ad valorem and PACE assessments as a percentage of the property's FMV is a standard that has been adopted by many PACE providers across the nation. It creates a reasonable nexus between the cost of the annual property tax bill that also contains the PACE assessment and what the value of the underlying property is. The average millage rate in Broward is ~2.09% of the property value (20.88 mils - http://www.bcpa.net/taxcalc.asp), leaving ~2.91% for all non-ad valorem assessments, including things like Fire Fees, Special District Fees (e.g. hospital, water) and PACE. The problem with this measure by itself is that it does not take into consideration the income of the property owner, particularly their discretionary income.

We worked with our Human Services Department and the Bureau of Labor Statistics in Washington to generate discretionary income data for those on the lower end of the socioeconomic scale. We specifically looked at data for those making $15,000-$19,999, $20,000-$29,999 and $30,000-$39,999. What we determined is that the discretionary income (available income after normal household expenses) was in the range of 8-10% of total gross income, with discretionary income rising as gross income increased through these ranges and beyond. In an abundance of caution we used the 8% figure to develop the 4% threshold contained in the proposed resolution. The thinking was that we did not want a property owner to spend all of their discretionary income on a new PACE assessment and have no financial cushion for unexpected expenses.

In the case of someone earning an income of $15,000 a year, their discretionary income would be $1200. The 4% threshold would limit their allowable annual PACE assessment to $600. Based on average PACE funding interest rates over a 15 year period (the average length of a PACE funding assessment), that would allow for a maximum project cost of $5,232. Assuming existing non-ad valorem assessments did not exceed .91%, the minimum property FMV would have to be $30,000 to support an annual assessment of $600. Please see the chart below for this and other funding limit examples.

Annual Income	Discretionary Income (8%)	Proposed Pace Limit (4%)	Minimum Property FMV	Maximum Project Cost
$15,000	$1,200	$600	$30,000	$5,232
$25,000	$2,000	$1,000	$50,000	$8,720
$35,000	$2,800	$1,400	$70,000	$12,207
$200,000	$16,000	$8,000	$400,000	$69,760

Another alternative standard would be to gain the approval of the property owner's mortgage provider. In order to provide such an approval, the mortgage provider would perform its typical due diligence in order to ensure that the property owner has the financial capability to take on the additional cost of the PACE assessment. While this is the most preferred measure, it is also the least likely as most banks will not approve a PACE funding due to the banking industry's general opposition to PACE.

Another alternative standard would be for the property owner to request and receive approval from their mortgage servicer (the entity that administers mortgage payments) to escrow the PACE payments along with the mortgage, insurance and taxes for the property. The likelihood of the mortgage servicer agreeing is very high, as it is in the best interests of the mortgage funder to ensure that the PACE assessment is paid to better protect the financial interests of the mortgage funder, on whose behalf they are collecting the funds. If the PACE assessment is not paid, that could trigger a default with the County, which is something the mortgage funder would want to avoid.

A final alternative standard is for the property owner to demonstrate that projected annual property insurance savings or energy savings are equal to or exceed the annual PACE assessment. It is often the case when a property owner is installing impact windows (an eligible PACE activity) that insurance savings that meet this standard can be achieved. Proof of savings would be provided in the form of a written statement from the insurance provider. In the case of energy savings, the resolution requires that an energy audit be performed by an Association of Energy Engineers Certified Energy Auditor to ensure that a more accurate savings projection is provided.

Staff is available if you have any questions on this matter.

Cc: Evan A. Lukic, County Auditor
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