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City of Miami may lose \$317,000 in overdue impact fees

By Jacquelyn Weiner

Taking action too late in the game, the City of Miami may never collect much of more than \$317,000 in impact fees overdue since 2005.

Legal deadlines limit lawsuits to four years after the original fees were due — and that line was exceeded in two of the biggest cases of under-collected fees, according to a memo from the city attorney's office.

Melo Contractors owed \$121,351 and the now-defunct Coastal Condominiums owed \$86,607, making up the bulk of the \$317,804 in under-collected fees owed by 26 area contractors.

Melo's and Coastal's combined debt amounted to \$207,959 — well over half the \$317,804 under-collected to date, according to the memo.

The under-collected fees were first discovered in a 2005 audit, which showed that up to \$1.3 million in impact fees was undercharged between Oct. 1, 2001, and July 31, 2004.

The issue came to light in June of this year when Orlando Toledo, the city's director of building and zoning, told Miami commissioners that the city was owed \$337,719 in overdue impact fees dating to 2005 — and opportunities for legal action were waning.

Initially, an accounting error by two Department of Zoning employees caused the city to collect less than it was actually owed, Mr. Toledo told Miami Today in June.

Through sending out repeated collection letters, he said, the city had retrieved \$958,227 of the amount owed by June.

In addition, the city hired Penn Credit Corp., a collection agency, to help recover the impact fees, according to the memo from the city attorney's office.

And as a final attempt at recovering the overdue money, city commissioners directed the city attorney to pursue the debtors legally.

Yet as it turns out, the city had already missed the four-year deadline for legal recourse in the two largest cases of overdue fees.

As for Melo Contractors, the company was originally billed \$28,149 in impact fees, which it paid in February 2004, for a mixed-use residential and commercial complex at 1800 Biscayne Blvd.

More than 2½ years later, in August 2006, Melo was billed the additional \$121,351 it was undercharged following the 2005 audit.

The company refused to pay, according to the memo, providing a letter from a former city zoning administrator saying the building was exempt from the city's impact fee ordinance because of its location within a designated neighborhood development zone.

Upon further investigation, however, the city attorney found that the development was not in an exempt zone and thus the letter was inaccurate.

Yet because the company could have argued in court that it was operating under an assumption based on documents provided by the city, the memo said, it could have been a tough case.

Regardless, opportunities for legal action expired in February 2008, four years after the initial due date.

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As for Coastal, its building permits were issued in July 2004, so the city would have had to have taken legal action by July 2008.

City Attorney Julie Bru said the city has "resolved involvement" in all the under-collected impact fees cases originating from the 2005 audit but wouldn't comment further, aside from providing the closeout memo.

Some money continues to be collected through repayment plans between the city and the contractors, Mr. Toledo said.

This includes Keystone Construction, which is to pay the city \$2,000 monthly, according to an outstanding-invoice memo.

"Certain companies are paying monthly," Mr. Toledo said. "They have been constantly paying from \$20 to \$10,000 a month little by little."

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