



To: Charles Wu, Alex Palenzuela

From: Craig Leen, City Attorney for the City of Coral Gables

A handwritten signature in black ink, appearing to be "CL", is written over the end of the "From:" line.

RE: Legal Opinion Regarding Tree Fine For Removal Of A Tree

Date: March 23, 2015

The statutory cite is 162.09(2)(a). It allows for a fine not to exceed \$5,000 for a violation of an irreversible nature. Pursuant to section 2-201(e)(1) and (8) of the City Code, it is my opinion that willfully removing a tree from the public-right-of-way (i.e. intentional destruction of government property held for the benefit of the public) would qualify as a violation of an irreversible nature, in particular for specimen trees, as each tree is unique and the Commission has set a policy that specimen trees are to be protected (which applies even more forcefully when a tree is owned by the City for the benefit of the public). That sort of violation can only be mitigated. There will be times when the City, as sovereign, will allow for a tree to be removed from the right-of-way to serve a public good or prevent a harm, but this is a decision of the City, not of a resident or developer, as the tree belongs ultimately to the public.

Herbello, Stephanie

From: Leen, Craig
Sent: Monday, March 23, 2015 10:36 PM
To: Herbello, Stephanie
Cc: Ramos, Miriam; Figueroa, Yaneris; Chen, Brigitte
Subject: Fwd: Tree Fines

Please place in opinion folder.

Sent from my iPhone

Begin forwarded message:

From: "Leen, Craig" <cleen@coralgables.com>
Date: March 23, 2015 at 1:23:46 PM EDT
To: "Wu, Charles" <cwu@coralgables.com>, "alp@alp-law.com" <'alp@alp-law.com'>
Cc: "Ramos, Miriam" <mramos@coralgables.com>, "Figueroa, Yaneris" <yfigueroa@coralgables.com>, "Ortiz, William" <wortiz@coralgables.com>, "Dannemiller, Brook" <BDannemiller@coralgables.com>
Subject: RE: Tree Fines

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Craig E. Leen, City Attorney
Board Certified by the Florida Bar in
City, County and Local Government Law
City of Coral Gables
405 Biltmore Way
Coral Gables, Florida 33134
Phone: (305) 460-5218
Fax: (305) 460-5264
Email: cleen@coralgables.com

-----Original Message-----

From: Wu, Charles
Sent: Monday, March 23, 2015 10:08 AM
To: 'alp@alp-law.com'
Cc: Ramos, Miriam; Figueroa, Yaneris; Ortiz, William; Dannemiller, Brook; Leen, Craig

Subject: FW: Tree Fines
Importance: High

Hello Alex.

I am putting together updates to the fee schedule. An issue arose with respect to the maximum amount allowed for a civil penalty. Attached is the florida statutes that state we cannot go above \$250 for first and \$500 for repeat. In cases of illegal cutting down a specimen trees, the damage is severe and irreparable. (Interestingly, the existing fine is \$500, so that is already not consistent with the statutes.) Are those the max amounts allow without going before the Code Board? It does not seem that a mere \$250 penalty will discourage a home owner to cut down a 50 year old tree that is a part of the city's heritage. Your wisdom on the matter will be appreciated.

Thank you in advance.

Charles

-----Original Message-----

From: Dannemiller, Brook
Sent: Monday, March 16, 2015 11:29 AM
To: Wu, Charles
Subject: FW: Tree Fines
Importance: High

FYI

-----Original Message-----

From: Leen, Craig
Sent: Monday, March 16, 2015 11:15 AM
To: Dannemiller, Brook
Cc: 'alp@alp-law.com'; Ramos, Miriam; Figueroa, Yaneris; Ortiz, William
Subject: RE: Tree Fines
Importance: High

I believe that the fine for cutting down a tree on government property should be the maximum fine allowed by law. I recall that fines for irreparable offenses can go up to \$5,000. I am asking Alex to give his thoughts on this.

Craig E. Leen, City Attorney
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-----Original Message-----

From: Dannemiller, Brook

Sent: Monday, March 16, 2015 8:20 AM
To: Leen, Craig
Subject: RE: Tree Fines

Hi Craig,

Hope you had a great weekend. Were you able to research the maximum tree fines described below?

Thanks,

Brook

Brook Dannemiller, RLA

Public Service Director
City of Coral Gables
2800 S.W. 72nd Avenue
Miami, FL 33155
Office: (305) 460-5130
bdannemiller@coralgables.com

-----Original Message-----

From: Dannemiller, Brook
Sent: Friday, March 13, 2015 1:30 PM
To: Leen, Craig
Subject: Tree Fines

Craig,

As discussed, what is the maximum fine allowed by law for illegally cutting down or causing irreparable harm to a City owned tree on City property or right of way?

Also, what is the maximum fine allowed by law for illegally cutting down or causing irreparable harm to a privately owned specimen tree on private property?

If possible, I need to get an answer to Development Services by no later than Monday morning.

Thanks,

Brook