



Legal Opinion

City Attorney's Office
405 Biltmore Way, 2nd Floor
Coral Gables, FL 33134

To: William Miner, Building Director

From: Yaneris Figueroa, Assistant City Attorney

Approved: Craig E. Leen, City Attorney 

Date: August 24, 2015

Re: Opinion Regarding Placement of Mailboxes within the City

The following legal opinion has been approved by the City Attorney as an opinion and interpretation of the City under sections 2-201(e)(1) and (8) of the City Code, as well as section 2-702 of the Zoning Code. The opinion addresses the question of whether multiple mailboxes can be placed as a freestanding structure between townhouses and the street, or whether each mailbox should be placed on each individual townhouse. The opinion concludes that multiple mailboxes cannot lawfully be placed as a freestanding structure between the townhouses and the street, and thus each townhouse must have its own mailbox on each unit. The opinion is as follows:

The City of Coral Gables' City and Zoning Codes are silent as to the placement of mailboxes in the City; however, there are various provisions concerning the placement of accessory use structures in the City. In effect, said provisions will require placement of the mailboxes on the individual townhomes rather than a free standing structure with multiple mailboxes.

The City defines an accessory building or structure as a building or structure which use "1) is subordinate to and serves a principal use; 2) is subordinate in area, extent, and purpose to the principal use served; 3) contributes to the comfort, convenience or necessities of the users or occupants of the principal use; and 4) is located on the same building site as the principal use." The mailbox, as contemplated in this case, which is one large structure incorporating various smaller mailboxes within, is considered an accessory building or structure. Accordingly, any

placement of the mailbox, as an accessory building or structure, must comply with Code requirements regarding such uses.

Section 5-101 of the City Zoning Code specifically addresses accessory buildings and structures. Applicable in this scenario, Section 5-101(b) states that “no accessory building or structure may be located in the area between the street and the main residential building or any part thereof.” Similarly, Section 5-101(c) states that “[i]n no case shall an accessory building or structure be located closer to the front or side street of a lot or building site than the main or principal building.” Thus, the mailbox, because it is considered an accessory building or structure, and accessory buildings and structures cannot be placed between the street and the main building, cannot be placed on the City right of way or other location between the street and the main building.

It is important to note that, in this case, Florida courts have upheld the validity of similar zoning provision. Indeed, in *City of Pompano Beach v. Haggerty*, 530 So. 2d 1023 (4th DCA 1988), the Fourth District Court of Appeal upheld an ordinance prohibiting obstructions in the right-of-way of a city street. In that case, moreover, the City of Pompano Beach further established criteria for construction of mailboxes. The Court also found that provision valid.

Thus, in order to comply with City regulations, the mailboxes must be placed as individual mailboxes on each unit rather than the right of way or other area between the street and main building.

Paulk, Enga

From: Leen, Craig
Sent: Monday, August 24, 2015 6:14 PM
To: Paulk, Enga
Cc: Ramos, Miriam; Figueroa, Yaneris; Chen, Brigitte
Subject: FW: City Attorney Opinion Regarding Item I-2 (Townhouses/Mailboxes)

Actually, please use the attached instead. Please give it a CAO number and upload to the website.

Craig E. Leen, City Attorney

*Board Certified by the Florida Bar in
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City of Coral Gables
405 Biltmore Way
Coral Gables, Florida 33134
Phone: (305) 460-5218
Fax: (305) 460-5264
Email: cleen@coralgables.com



Celebrating 90 years of a dream realized.

From: Leen, Craig
Sent: Monday, August 24, 2015 6:07 PM
To: Commissioners
Cc: Swanson-Rivenbark, Cathy; Foeman, Walter; Olazabal, Carmen; Ramos, Miriam; Figueroa, Yaneris; Tompkins, Jane; Wu, Charles; Trias, Ramon; Miner, William; Ortiz, William
Subject: City Attorney Opinion Regarding Item I-2 (Townhouses/Mailboxes)

Mayor and Commissioners,

Please see the attached opinion (along with the email below) that was sent to the U.S. Attorney's Office this evening regarding mailboxes and townhouses. The item is on tomorrow's Commission Agenda as Item I-2. The opinion concludes that it is unlawful under the City's codes to have multiple mailboxes in a freestanding structure between townhouses and the street as has been proposed. Instead, each townhouse must have a mailbox on the unit. I am hopeful that USPS will work with us to comply with the City's codes.

Please do not reply to all, and please call with any questions.

Craig E. Leen, City Attorney

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Email: cleen@coralgables.com



Celebrating 90 years of a dream realized.

From: Leen, Craig
Sent: Monday, August 24, 2015 6:02 PM
To: 'Sanchez, Eduardo (USAFLS)'
Cc: Erickson-Pogorzelski, Anthony (USAFLS); Miner, William; Ramos, Miriam; Figueroa, Yaneris
Subject: RE: New construction-Coral Gables

Ed and Anthony,

Please see my office's legal opinion, which is attached. It concludes that it is unlawful under the City's codes to have multiple mailboxes in a freestanding structure between townhouses and the street as has been proposed. Instead, each townhouse must have a mailbox on the unit.

The City would like to work with USPS to find a solution to this matter. Thank you for looking into this and helping us contact the right person at USPS.

Best regards,
Craig

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Celebrating 90 years of a dream realized.

From: Sanchez, Eduardo (USAFLS) [<mailto:Eduardo.I.Sanchez@usdoj.gov>]
Sent: Wednesday, July 08, 2015 4:08 PM
To: Leen, Craig

Cc: Erickson-Pogorzelski, Anthony (USAFLS)
Subject: RE: New construction-Coral Gables

Hi, Craig.

I am doing well. Sorry it has taken me a day to get back to you.

When you've completed your memo explaining the City's position, could you please send it to Anthony Erickson-Pogorzelski in our office? I have copied him on this email. Anthony will ensure that the appropriate person at the Postal Service receives a copy, and someone (probably from the Postal Service) will contact you after they have had an opportunity to review your memo.

I hope all is well with you, too.

Best,

Ed

Eduardo I. Sánchez
Counselor to the United States Attorney
United States Attorney's Office
99 N.E. 4th Street, Suite 800
Miami, FL 33132
Telephone: 305-961-9057
E-mail: Eduardo.I.Sanchez@usdoj.gov

From: Leen, Craig [<mailto:cleen@coralgables.com>]
Sent: Tuesday, July 07, 2015 12:58 PM
To: Sanchez, Eduardo (USAFLS)
Subject: FW: New construction-Coral Gables

Ed,

I hope you are doing well. I was hoping you could take a look at the email chain below, and let me know if there is a good person at the U.S. Attorney's Office to discuss this issue with. The issue is likely to be brought up today at the City Commission meeting. I am still in the process of having a memo prepared to explain our position and will get it to you soon. Of course, we would like to work this issue out with USPS, and I am sure we will be able to do so.

Best regards,
Craig

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Celebrating 90 years of a dream realized.

From: Lago, Vince
Sent: Friday, June 26, 2015 2:57 PM
To: Leen, Craig
Cc: Tony Pardo; Swanson-Rivenbark, Cathy; Granell, Chelsea; Tompkins, Jane; Trias, Ramon; Ramos, Miriam; Figueroa, Yaneris
Subject: Re: New construction-Coral Gables

Thank you

Sent from my iPhone

On Jun 26, 2015, at 2:53 PM, Leen, Craig <cleen@coralgables.com> wrote:

I agree, Commissioner. The review will occur by us over the next week, with the goal of contacting the U.S. Attorney's Office with a well-reasoned and presented legal position. The general position of the City is that federal agencies should follow our zoning regulations (similar to our position as to state agencies, county agencies, and the school board). We asserted this on a historic preservation matter several years ago and were able to persuade the U.S. Attorney's Office to follow our historic preservation procedure.

Craig E. Leen
City Attorney

Sent from my iPhone

On Jun 26, 2015, at 2:46 PM, Lago, Vince <VLago@coralgables.com> wrote:

Craig,

This is a critical issue, especially as more and more project come on line.

Let's take a serious look at how we can resolve this issue.

Thank you,

Vince

Sent from my iPhone

On Jun 26, 2015, at 2:40 PM, Leen, Craig <cleen@coralgables.com> wrote:

My office will contact the U.S. Attorney's Office and raise the issue.

Craig E. Leen

City Attorney

Sent from my iPhone

On Jun 25, 2015, at 5:02 PM, Tony Pardo <tpardo@avenue04.com> wrote:

Vince,

As an update, USPS has had no further communication with us. Their last correspondence with us instructed us to have the City show USPS that the City land use regulations did not allow for mailboxes on the street. They suggested that the City contact USPS legal department directly.

Tony Pardo
Avenue 4
2020 Ponce de Leon Blvd., Suite 1103
Coral Gables, Florida 33134
www.avenue04.com
T. 305.444.5545
F. 305.444.5509

Sent from my iPhone

On Jun 17, 2015, at 2:46 PM, Lago, Vince <VLago@coralgables.com> wrote:

Team,

We need to work on this issue, could potentially grow into a big concern as more projects come on line.

Thanks,

Vince

Sent from my iPhone

Begin forwarded message:

From: Tony Pardo <tpardo@avenue04.com>
Date: June 17, 2015 at 8:44:42 AM EDT
To: Vince Lago <VLago@coralgables.com>
Cc: Anibal Duarte-Viera <anibal@tcoa.us>
Subject: Fwd: New construction-Coral Gables

Good morning Vince. USPS response.

Tony Pardo
Avenue 4
2020 Ponce de Leon Blvd., Suite 1103
Coral Gables, Florida 33134
www.avenue04.com
T. 305.444.5545
F. 305.444.5509

Sent from my iPhone

Begin forwarded message:

From: "de la Torre, Dalila - Pembroke Pines, FL" <Dalila.M.DeLaTorre@usps.gov>
Date: June 17, 2015 at 8:28:38 AM EDT
To: 'Tony Pardo' <tpardo@avenue04.com>, "Rudershausen, Elsa - Miami, FL" <Elsa.M.Rudershausen@usps.gov>, "Goizueta, Virginia" <vgoizueta@coralgables.com>
Cc: "Alejandro, Alex R - Pembroke Pines, FL" <alexis.r.alejandro@usps.gov>
Subject: RE: New construction-Coral Gables

Good afternoon Mr. Pardo,

Door delivery is not an available option. Local government does not determine postal delivery mode. The Postal Service has the authority, and autonomy, to determine the mode of delivery. Mail delivery falls under the mandate of Federal Regulations. I am sorry you were misinformed.

If you can provide me with some documentation from the city detailing this requirement I can forward to our law department. They would be best qualified to clarify this issue with the city.

Thank you

Dalila de la Torre

District Growth Coordinator
P.O Box 829631
Pembroke Pines, Florida 33082-9631
954-443-6558 Office
650-357-6332 Fax

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From: Tony Pardo [<mailto:tpardo@avenue04.com>]
Sent: Tuesday, June 16, 2015 4:25 PM
To: Rudershausen, Elsa - Miami, FL; 'Goizueta, Virginia'
Cc: de la Torre, Dalila - Pembroke Pines, FL
Subject: RE: New construction-Coral Gables

Nikki,

I guess this is why City representatives reached out to you. USPS representatives provided mailbox options which were not allowed by the City of Coral Gables. The existing townhouse projects built in the area in the recent past all have wall-mounted mailboxes at each townhouse. That is what the City wants. We were told the USPS wanted to change this starting with our project. There are several more projects like ours which will commence construction in the very near future that will be affected by this same issue. Your help is appreciated. Thank you very much.

Antonio P. Pardo



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From: Rudershausen, Elsa - Miami, FL [<mailto:Elsa.M.Rudershausen@usps.gov>]
Sent: Tuesday, June 16, 2015 4:14 PM
To: tpardo@avenue04.com; Goizueta, Virginia
Cc: de la Torre, Dalila - Pembroke Pines, FL
Subject: FW: New construction-Coral Gables

Thank you for responding Tony. I reviewed the photograph attached the mailboxes you installed are not curbside mailboxes, they are wall mounted, door to door. I did speak with the local representative Rose Negroni and stated that she visited the site a couple of times. On the visit no one was on site. However, on her second visit she did speak with a Hispanic worker and provide him with her contact information as well as a picture of the mailbox options for this project. Needless to say, no one contact her.

I have included in this email Dalila De La Torre, who is the Growth Management Coordinator for our district. She will review the attached and provide guidance on this pending issue. For future reference, please know that for new construction, both door to door and or curbside delivery must be pre-approved by the USPS.

Respectfully,

Nikki Rudershausen
United States Postal Service
South Florida District
Address Management Systems
Product Information Quality Analyst
2200 NW 72ND AVE STE 222
Miami, FL 33152-9321

Office: 305-470-0553
Fax: 305-470-0554

When referring to a specific project, please include the ZIP Code and project name in the subject line. Thank you!!

From: Tony Pardo [<mailto:tpardo@avenue04.com>]
Sent: Tuesday, June 16, 2015 3:02 PM
To: Rudershausen, Elsa - Miami, FL

Cc: vgoizueta@coralgables.com

Subject: RE: New construction-Coral Gables

Nikki,

Thanks for reaching out. Construction on our project is complete. We received a C.O. from the City of Coral Gables in December 2014. We are working on a couple more projects in this same area. The architect on this project will begin coordinating with you at the appropriate time on those projects.

The answer to your questions are shown below in red. Please let me know if you need anything else from us. And, thanks again for your assistance with this matter.

Antonio P. Pardo



2020 Ponce de Leon Boulevard, Suite 1103

Coral Gables, Florida 33134

O. 305.444.5545

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www.avenue04.com

From: Rudershausen, Elsa - Miami, FL [<mailto:Elsa.M.Rudershausen@usps.gov>]

Sent: Monday, June 15, 2015 3:30 PM

To: tpardo@avenue04.com

Cc: vgoizueta@coralgables.com

Subject: New construction-Coral Gables

Importance: High

Good afternoon Mr. Pardo,

My name is Nikki Rudershausen and I work in the Address Management Office of the United States Postal Service. I am writing you today because I would like to request information regarding a new construction project located in Coral Gables.

- 1- What is the approximate date of completion for the development?
Completed. Certificate of Occupancy issued in December 2014.
- 2- What is the name of this project?
Anastasia Townhomes
- 3- Will this be residential, business, mixed use, adult living facility or student housing development?
Residential
- 4- What is the approximate number of units/SFH?
10 Townhouses
- 5- Which ZIP code is this located in?
33134
- 6- Can you provide me with a finalized address listing?
515 Anastasia Avenue, Coral Gables, FL 33134
517 Anastasia Avenue, Coral Gables, FL 33134
519 Anastasia Avenue, Coral Gables, FL 33134
521 Anastasia Avenue, Coral Gables, FL 33134
523 Anastasia Avenue, Coral Gables, FL 33134
525 Anastasia Avenue, Coral Gables, FL 33134
527 Anastasia Avenue, Coral Gables, FL 33134
529 Anastasia Avenue, Coral Gables, FL 33134
531 Anastasia Avenue, Coral Gables, FL 33134

533 Anastasia Avenue, Coral Gables, FL 33134

7- Can you provide me with a dated site map?

See attached

8- What type of mail receptacles will be installed?

Wall mounted exterior mailbox as shown on attached photo.

(*Please be advised that management office, clubhouse, guardhouse etc must also be allotted a mailbox if receiving mail)

9- Will the boxes be all in one location? And will the site map indicate the location?

A mailbox will be provided next to the front door of each townhouse as shown on the attached photo.

9- Will the mailboxes be engraved? If so, will it be engraved with the secondary address or numerical sequence?

The house number is the right of the front door and the mailbox is on the left of the front door. See attached photo.

10- Will the mailboxes be protected against inclement weather?

Mailbox is enclosed and under partial cover.

11- When do you expect the first tenants to move in?

Residents already have moved into 2 of the 10 units. We expect more to move in soon.

12- Will this be a gated community and if so what kind of access will be provided for the letter carrier?

The community is not gated. Each townhouse is accessible from the public sidewalk. The letter carrier can park in the swale in front of the project.

Please ensure that a parking space is provided for the Postal Service.

If you have any other projects in the works, from Key West to Fort Pierce, please let me know. I do look forward to working with you on any future projects.

Respectfully,

Nikki Rudershausen

United States Postal Service
South Florida District
A/Manager Address Management System
2200 NW 72ND AVE STE 222
Miami, FL 33152-9321
OFC: 305-470-0355
FAX: 305-470-0554

Please Note: Florida has a very broad Public Records Law. Most written communications to or from State and Local Officials regarding State or Local business are public records available to the public and media upon request. Your email communications may therefore be subject to public disclosure.

<image001.jpg>

<image001.jpg>

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