



To: Lucia A. Dougherty and Jorge L. Navarro

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

A handwritten signature in blue ink, appearing to be "CL", is written over the name "Craig E. Leen".

RE: Legal Opinion Regarding Development at 390 Bird Road

Date: December 31, 2015

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I have had an opportunity to review your letter requesting a legal opinion regarding the proposed development at 390 Bird Road. I have also consulted with Ramon Trias, who concurs with this opinion. For purposes of this opinion, I am accepting the facts in your letter as true. Any material change from these facts may change this opinion. Pursuant to section 2-201(e)(1) and (8) of the City Code, as well as section 2-702 of the Zoning Code, it is my opinion and interpretation that you may legally build over the alley, with the Commission's approval, without vacating the alley as long as the public retains the right to use the alley for its intended purpose, and it remains unobstructed. As mentioned in your letter, you would need to receive approval of the Commission, which could be in the form of an encroachment agreement (because of the City's air rights), and you would need to list the City as an additional insured. You would also need to provide sufficient assurance to the Commission that the developer/owner would defend, indemnify, and protect the City from any liability. As mentioned, the dimensions of the alley would have to comply with Public Works standards, and you would not be permitted to use the area of the alley to compute the FAR of the building.

This opinion merely establishes the City's opinion as to the legality of proceeding in such a manner through the City process. Ultimately, the final decision as to approval, denial, or modification, would be in the sound discretion of the City Commission.

**From:** [Leen, Craig](#)  
**To:** [Paulk, Enga](#)  
**Cc:** [Chen, Brigitte](#)  
**Subject:** FW: Request for Legal Opinion and Interpretation - 390 Bird Road  
**Date:** Wednesday, December 30, 2015 5:57:20 PM  
**Attachments:** [image001.png](#)

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Please publish.

**Craig E. Leen, City Attorney**

*Board Certified by the Florida Bar in  
City, County and Local Government Law*  
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Email: [cleen@coralgables.com](mailto:cleen@coralgables.com)



*Celebrating 90 years of a dream realized.*

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**From:** Leen, Craig  
**Sent:** Wednesday, December 30, 2015 12:26 PM  
**To:** 'DoughertyL@gtlaw.com'; 'navarrojo@gtlaw.com'  
**Cc:** Trias, Ramon  
**Subject:** Request for Legal Opinion and Interpretation - 390 Bird Road

Lucia,

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**Craig E. Leen, City Attorney**

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