



To: Ramon Trias

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 CAO 2013-033
Site Specific for Lots 23 through 32, Blk 10 Biltmore Section (701-711 Valencia Ave)


Date: April 19, 2016

I have reviewed CAO 2013-033, as well as the site specific for Lots 23 through 32, Blk 10 Biltmore Section (701-711 Valencia Ave). The relevant site specific is located in Section A-12.B.3 of the Coral Gables Zoning Code, which applies expressly to Lots 3 through 41 inclusive Block 10 (please note, both this matter and CAO 2013-033 involve properties in the MFSA District). The site specific indicates that the permitted height is "thirteen (13) stories or one-hundred-fifty feet, whichever is less." This is the exact same site specific that was applied in CAO 2013-033, which determined that the site specific applied and provided the permissible height. Thus, as stated in the site specific, and consistent with CAO 2013-033, the permitted height is 13 stories or 150 feet, whichever is less.

I am attaching CAO 2013-033 and incorporating its analysis herein. This legal interpretation is issued on behalf of the City pursuant to sections 2-201(e)(1) and (8) of the City Code, and section 2-702 of the Zoning Code.



To: Martha Salazar-Blanco

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

RE: Legal Opinion Regarding Coral Gables MFSA Standards

Date: August 06, 2013

You have inquired about the interpretation of the above-referenced sections of Code as they apply to the height of development at the property at lots 29-41 of Block 10, 717 through 741 Valencia Avenue. I have attached the relevant sections of the Code, referenced above, and a zoning verification letter that the City previously issued for this property in 2007. The relevant provisions have not been revised since the 2007 letter was issued, so the same regulations are being interpreted. Please note, this opinion and interpretation is being provided by the City Attorney pursuant to the authority granted in sections 2-201(e)(1) and (8) of the City Code, which is also consistent with the City Attorney's authority under section 2-702 of the Zoning Code.

The 2007 letter clearly opines that Section 4-104.D.8.a. governs, and the site specific regulations therefore determine the permissible height on the property. The 2007 letter states that: "As a point of clarification Sections 4-104D.8.b. through g. of the "Zoning Code" provides for the permitted height of properties that do not have Site Specific Zoning Regulations in the MFSA Zoning District." You have inquired whether this is a correct interpretation of the Code, or whether the proper interpretation is to apply the strictest of the applicable height limits listed in Section 4-104.0.8.

I have reviewed Section 4-104 in its entirety, Section A-12 of the site specific regulations (the section applicable to these lots), and Section 1-108C (relating to Site Specific regulations), all in the City Zoning Code, and conferred with outside counsel (who conferred with the attorney who drafted the regulations at issue for the City). It is my opinion that the Site Specific regulations govern over more general regulations. This basic principle, that the specific takes precedence over the general, is followed by appellate courts, including the Florida Supreme Court. See, e.g., *Mendenhall v. State of Florida*, 48 So. 3d 740, 748 (Fla. 2010); see also *Palm Harbor Special Control District v. Kelly*, 500 So. 2d 1382, 1385-86 (Fla. 2d DCA 1987). Thus, the specific parts of the law control the more general provisions. Here, the site specific regulations for this property take precedence because they specifically reference this property by lot and block number.

You have also asked whether section 1-109(E) --which provides a rule of construction that in the event of a conflict between provisions in the Zoning Code, the more restrictive provision applies - would change this analysis. It is my opinion that this section does not change the analysis. As an initial matter, section 4-104, which specifically addresses the MFSA District, states in the performance standards (section 4-104(D)) that the site specific standard applies, and then emphasizes that the site specific applies again when expressly addressing height (section 4-104.D.8.a). In such circumstances, there is no need to address section 1-109(E), as there is no conflict present here, since the MFSA standard itself states on its face that the site specific standard will apply. In other words, the plain meaning of section 4- 104 governs, which specifically addresses and resolves the situation at issue, so there is no need to resort to a more general rule of construction. In addition, I would also note that Section 1-109(C), which directly addresses the application of site specific standards, indicates that the site specifics control over other provisions in the Zoning Code (with a limited exception that is not applicable to the issue we are discussing). This rule also supports application of the site specifics here.

Finally, please consider that any other interpretation would negate the inclusion of the site specific regulations in subsection 4-104.D.8.a. There is another basic rule of construction that every word in a legislative enactment should be given meaning, if at all possible. This rule ensures that legislative intent is followed. Here, I believe this rule supports applying the site specific regulations as well, as referenced in 8.a.

For these reasons, my conclusion (and that of the other attorneys consulted) is that the 2007 letter is correct, and the height of development on the property is governed by the site specific regulations. Please advise if you have any questions or need further assistance with this matter.

Osle, Zilma

From: Leen, Craig
Sent: Tuesday, August 06, 2013 3:37 PM
To: Hernandez, Cristina; Osle, Zilma
Cc: Thornton Richard, Bridgette; Figueroa, Yaneris; Franqui, Susan
Subject: FW: City Attorney Opinion - Coral Gables MFSA standards Section 4-104 and Site Specifics Section A-13
Attachments: Zoning.Letter.715-741 Valencia.5.18.07.pdf; Zoning Code, Section 4-104 and Appx. A, Section A-12.pdf

Please place in the Opinion Folder.

Craig E. Leen
City Attorney

From: Leen, Craig
Sent: Tuesday, August 06, 2013 3:13 PM
To: Salazar-Blanco, Martha
Cc: Tompkins, Jane; Trias, Ramon; Thornton Richard, Bridgette; 'Susan L. Trevarthen'
Subject: City Attorney Opinion - Coral Gables MFSA standards Section 4-104 and Site Specifics Section A-13

Ms. Salazar-Blanco,

You have inquired about the interpretation of the above-referenced sections of Code as they apply to the height of development at the property at Lots 29-41 of Block 10, 717 through 741 Valencia Avenue. I have attached the relevant sections of the Code, referenced above, and a zoning verification letter that the City previously issued for this property in 2007. The relevant provisions have not been revised since the 2007 letter was issued, so the same regulations are being interpreted. Please note, this opinion and interpretation is being provided by the City Attorney pursuant to the authority granted in sections 2-201(e)(1) and (8) of the City Code, which is also consistent with the City Attorney's authority under section 2-702 of the Zoning Code.

The 2007 letter clearly opines that Section 4-104.D.8.a. governs, and the site specific regulations therefore determine the permissible height on the property. The 2007 letter states that: "As a point of clarification Sections 4-104D.8.b. through g. of the "Zoning Code" provides for the permitted height of properties that do not have Site Specific Zoning Regulations in the MFSA Zoning District." You have inquired whether this is a correct interpretation of the Code, or whether the proper interpretation is to apply the strictest of the applicable height limits listed in Section 4-104.D.8.

I have reviewed Section 4-104 in its entirety, Section A-12 of the site specific regulations (the section applicable to these lots), and Section 1-108C (relating to Site Specific regulations), all in the City Zoning Code, and conferred with outside counsel (who conferred with the attorney who drafted the regulations at issue for the City). It is my opinion that the Site Specific regulations govern over more general regulations. This basic principle, that the specific takes precedence over the general, is followed by appellate courts, including the Florida Supreme Court. *See, e.g., Mendenhall v. State of Florida*, 48 So. 3d 740, 748 (Fla. 2010); *see also Palm Harbor Special Control District v. Kelly*, 500 So. 2d 1382, 1385-86 (Fla. 2d DCA 1987). Thus, the specific parts of the law control the more general provisions. Here, the site specific regulations for this property take precedence because they specifically reference this property by lot and block number.

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then emphasizes that the site specific applies again when expressly addressing height (section 4-104.D.8.a). In such circumstances, there is no need to address section 1-109(E), as there is no conflict present here, since the MFSA standard itself states on its face that the site specific standard will apply. In other words, the plain meaning of section 4-104 governs, which specifically addresses and resolves the situation at issue, so there is no need to resort to a more general rule of construction. In addition, I would also note that Section 1-108(C), which directly addresses the application of site specific standards, indicates that the site specifics control over other provisions in the Zoning Code (with a limited exception that is not applicable to the issue we are discussing). This rule also supports application of the site specifics here.

Finally, please consider that any other interpretation would negate the inclusion of the site specific regulations in subsection 4-104.D.8.a. There is another basic rule of construction that every word in a legislative enactment should be given meaning, if at all possible. This rule ensures that legislative intent is followed. Here, I believe this rule supports applying the site specific regulations as well, as referenced in 8.a.

For these reasons, my conclusion (and that of the other attorneys consulted) is that the 2007 letter is correct, and the height of development on the property is governed by the site specific regulations. Please advise if you have any questions or need further assistance with this matter.

Sincerely,



Craig E. Leen
City Attorney
City of Coral Gables
405 Biltmore Way
Coral Gables, Florida 33134
Phone: (305) 460-5218
Fax: (305) 460-5264
Email: cleen@coralgables.com

From: [Leen, Craig](#)
To: [Paulk, Enga](#)
Subject: FW: CAO 2013-033 - As Pertains to Site Specifics Height Designation Lots 23-32 Blk 10 Biltmore Section
Date: Wednesday, April 20, 2016 5:43:43 PM
Attachments: [Legal Opinion on Site Specifics for 747 Valencia 2013.pdf](#)
[image001.png](#)

Please publish.

Craig E. Leen, City Attorney

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City, County and Local Government Law*
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Email: cleen@coralgables.com



Celebrating 90 years of a dream realized.

From: Leen, Craig
Sent: Wednesday, April 20, 2016 5:43 PM
To: Trias, Ramon
Cc: Marshall Bellin; 'Henry Paper'; Ramos, Miriam
Subject: RE: CAO 2013-033 - As Pertains to Site Specifics Height Designation Lots 23-32 Blk 10 Biltmore Section

Ramon,

I have reviewed CAO 2013-033, as well as the site specific for Lots 23 through 32, Blk 10 Biltmore Section (701-711 Valencia Ave). The relevant site specific is located in Section A-12.B.3 of the Coral Gables Zoning Code, which applies expressly to Lots 3 through 41 inclusive Block 10 (please note, both this matter and CAO 2013-033 involve properties in the MFSA District). The site specific indicates that the permitted height is "thirteen (13) stories or one-hundred-fifty feet, whichever is less." This is the exact same site specific that was applied in CAO 2013-033, which determined that the site specific applied and provided the permissible height. Thus, as stated in the site specific, and consistent with CAO 2013-033, the permitted height is 13 stories or 150 feet, whichever is less. I am attaching CAO 2013-033 and incorporating its analysis herein. This legal interpretation is issued

on behalf of the City pursuant to sections 2-201(e)(1) and (8) of the City Code, and section 2-702 of the Zoning Code.

Craig E. Leen, City Attorney

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Celebrating 90 years of a dream realized.

From: Henry Paper [mailto:henry.paper@yahoo.com]

Sent: Friday, April 08, 2016 3:52 PM

To: Leen, Craig; Trias, Ramon

Cc: Marshall Bellin; Ramos, Miriam

Subject: RE: CAO 2013-033 - As Pertains to Site Specifics Height Designation Lots 23-32 Blk 10 Biltmore Section

Yrs, of course. I apologize for the lack of art in my last. I do appreciate your time here. Many thanks.

H.Paper,Esq.(NJ)

305-491-3302

henry.paper@yahoo.com

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On Fri, Apr 8, 2016 at 3:37 PM, Leen, Craig
<cleen@coralgables.com> wrote:

Good afternoon, Henry. Please be aware that I do not provide legal advice, for which you would need to retain your own private counsel. I will give you the City's interpretation of the Zoning Code and Site Specifics. I will confer with Ramon and respond on Monday. Have a nice weekend, Craig

Craig E. Leen, City Attorney
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Celebrating 90 years of a dream realized.

From: Henry Paper [mailto:henry.paper@yahoo.com]
Sent: Friday, April 08, 2016 11:27 AM
To: Leen, Craig; Trias, Ramon
Cc: Marshall Bellin
Subject: CAO 2013-033 - As Pertains to Site Specifics Height Designation Lots 23-32 Blk 10 Biltmore Section

Craig:

Thank you for your time this morning and for the opportunity to discuss the concerns raised by Marshall relative to the maximum permitted height for Lots 23-32, Blk 10 Biltmore Section (701-711 Valencia Ave).

I attach the CAO 2013-33 issued by you relative to the immediately adjoining lots to the west (711-741 Valencia Ave) and ask you to confirm your advice to me this morning that

consistent with CAO 2013-33 Lots 23-32, Blk 10 also have a permissible maximum height, as of right, of 13 stories or 150 feet as set out in Section A-12 of the Site Specific Regulations. The permissible height for these lots is not conditioned on or limited by lot area as may otherwise be indicated in the Code for properties without Site Specific (height) Regulations.

Kindly confirm this to me at your earliest. Many thanks, hp

H.Paper,Esq.(NJ)
305-491-3302
henry.paper@yahoo.com

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