



To: Melanie Damian

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 end of the "From:" line.

RE: Legal Opinion Regarding 927 Valencia

Date: February 3, 2017

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I have reviewed your email with Dona Spain, who is the Historic Preservation Officer, and provide the following opinion and interpretation on behalf of the City:

Your analysis is correct except the City does not view this as a variance. Instead, it is more in the nature of a legal non-conformity under Article 6 of the Zoning Code. As long as the fence was built at a time where it was consistent with Lot 20 remaining a lawful building site, and as long as the fence is an isolated factor and Lot 20 has not been developed or incorporated into the 927 Valencia site, Lot 20 may proceed as a building site assuming other applicable regulations are followed (including the historic preservation ones). In addition, as this application serves the public purpose of historic preservation, the Historic Preservation Board can review your application through a special certificate of appropriateness, which provides a public hearing where residents can attend and speak. This analysis is consistent with prior opinions issued by my office.

This opinion is issued pursuant to section 2-201(e)(1) and (8) of the City Code, as well as section 2-702 of the Zoning Code.

**From:** [Leen, Craig](#)  
**To:** [Paulk, Enga](#)  
**Subject:** Fwd: 927 Valencia  
**Date:** Thursday, February 02, 2017 11:27:11 PM  
**Attachments:** [image001.png](#)

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Please publish.

Sent from my iPhone

Begin forwarded message:

**From:** "Leen, Craig" <[cleen@coralgables.com](mailto:cleen@coralgables.com)>  
**Date:** February 2, 2017 at 10:52:22 PM EST  
**To:** Melanie Damian <[mdamian@dvlp.com](mailto:mdamian@dvlp.com)>  
**Cc:** "Spain, Dona" <[dspain@coralgables.com](mailto:dspain@coralgables.com)>, "Ramos, Miriam" <[mramos@coralgables.com](mailto:mramos@coralgables.com)>  
**Subject: Re: 927 Valencia**

I have reviewed your email with Dona Spain, who is the Historic Preservation Officer, and provide the following opinion and interpretation on behalf of the City:

Your analysis is correct except the City does not view this as a variance. Instead, it is more in the nature of a legal non-conformity under Article 6 of the Zoning Code. As long as the fence was built at a time where it was consistent with Lot 20 remaining a lawful building site, and as long as the fence is an isolated factor and Lot 20 has not been developed or incorporated into the 927 Valencia site, Lot 20 may proceed as a building site assuming other applicable regulations are followed (including the historic preservation ones). In addition, as this application serves the public purpose of historic preservation, the Historic Preservation Board can review your application through a special certificate of appropriateness, which provides a public hearing where residents can attend and speak. This analysis is consistent with prior opinions issued by my office.

This opinion is issued pursuant to section 2-201(e)(1) and (8) of the City Code, as well as section 2-702 of the Zoning Code.

Craig E. Leen  
City Attorney

Sent from my iPhone

On Jan 30, 2017, at 6:41 PM, Melanie Damian <[mdamian@dvlp.com](mailto:mdamian@dvlp.com)> wrote:

Craig,

It was good to see you Saturday. I write on behalf of Valencia Properties Advanced Group, LLC, (927 Valencia- legally described as Lots 17, 18, 19 and 20 of Block 9 of Coral Gables Section A), to follow-up on our meeting last month. As we discussed at our meeting, I write to confirm your legal opinion that the Historic Preservation Board is authorized by the Zoning Code under the circumstances to permit a variance as set forth below.

Valencia Properties is submitting a request for a Special Certificate of Appropriateness and variance pursuant to the Historic Preservation Board's authority under Section 3-1113 of the Coral Gables Zoning Code for the construction of an addition to the existing historically designated building and the construction of a second new home on Lot 20. The purpose of the variance is to construct a second home on Lot 20 that will both fulfill the historic intent of maintaining Lot 20 as a separate building site and will permit the addition to the existing home to be historically preserved and in scale with the neighborhood. Accordingly, the variance will permit the proposed alterations and new construction to conform under Section 3-1106 by providing structures that complement the aesthetic historical character of the existing home and provide congruity between the new structure and the neighborhood.

While a variance is requested, as we discussed, the Property's building permit history demonstrates that Lot 20 has never been developed or incorporated into the 927 Valencia building site and pursuant to Section 3-206(E)(4) of the Code, the proposed site would be deemed a lawful building site with the very limited and minimal exception of a fence that was appended across a portion of Lot 20 in 1982. At the time the Property was issued the permit on May 18, 1982 for the four foot (4'0") high chain link fence at the rear of Lots 19 and 20, the Code's building site regulations did not consider the existence of fences on the site as a factor in determining what constitutes a building site. It was not until the Code was amended a year later in 1983 that fences were referenced in the building site regulations. And, with the possible exception of this rear fence, Lot 20 has never been incorporated into the single family home building site as such building sites are determined by the Code.

I am happy to discuss at your convenience. Thank you!

**Melanie Damian**

Partner

<image001.png>

Commercial Litigation | Receiverships | Employment Litigation and Counseling

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