



To: Vince Lago

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

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

RE: Legal Opinion Regarding City Commissioners May Speak Directly With City Staff

Date: July 28, 2014

I am writing to respond to the following statement:

"Finally, I wanted to point out that in other cities where I have been employed, general employees are typically barred from meeting with elected officials unless approved the city manager. I hope not to have incurred any violation by meeting with you briefly with regard to the subject matter."

As discussed, I have previously opined that the Charter of the City of Coral Gables permits City Commissioners to speak directly with City staff without the permission of the City Manager. This is clear from the wording of section 34 of the Charter, which provides more authority to the Coral Gables City Commission than is typical in City Charters. The Commissioners may speak with staff for purposes of inquiry. This allows you to perform your oversight function. Further, although an individual Commissioner may not direct staff, the Commission may direct staff in open session. Please see the attached City Attorney Interpretation from February 21, 2014, which addressed all these topics and was issued as an interpretation for the City (i.e. binding) under section 2-201(e)(8) of the City Code.

Osle, Zilma

From: Leen, Craig
Sent: Monday, July 28, 2014 12:57 PM
To: Osle, Zilma
Subject: FW: 921 Anastasia Ave. (Structural Revision)
Attachments: City Charter Interpretation Regarding Commission Aide.pdf

Importance: High

Please place in the opinion folder.

Craig E. Leen
City Attorney

From: Leen, Craig
Sent: Monday, July 28, 2014 12:56 PM
To: Lago, Vince
Subject: RE: 921 Anastasia Ave. (Structural Revision)
Importance: High

Commissioner Lago,

It was good speaking to you. I am writing to respond to the following statement:

"Finally, I wanted to point out that in other cities where I have been employed, general employees are typically barred from meeting with elected officials unless approved the city manager. I hope not to have incurred any violation by meeting with you briefly with regard to the subject matter."

As discussed, I have previously opined that the Charter of the City of Coral Gables permits City Commissioners to speak directly with City staff without the permission of the City Manager. This is clear from the wording of section 34 of the Charter, which provides more authority to the Coral Gables City Commission than is typical in City Charters. The Commissioners may speak with staff for purposes of inquiry. This allows you to perform your oversight function. Further, although an individual Commissioner may not direct staff, the Commission may direct staff in open session. Please see the attached City Attorney Interpretation from February 21, 2014, which addressed all these topics and was issued as an interpretation for the City (i.e. binding) under section 2-201(e)(8) of the City Code.

Best regards,

Craig E. Leen
City Attorney

From: Lago, Vince
Sent: Monday, July 28, 2014 10:46 AM
To: Leen, Craig
Subject: Fwd: 921 Anastasia Ave. (Structural Revision)

On we discuss this email.

Sent from my iPhone

Begin forwarded message:

From: "Gonzalez, Dario" <dgonzalez2@coralgables.com>
Date: July 28, 2014 at 9:28:32 AM EDT
To: "Lago, Vince" <VLago@coralgables.com>
Cc: "Tompkins, Jane" <jtompkins@coralgables.com>, "Wu, Charles" <cwu@coralgables.com>, "Miner, William" <wminer@coralgables.com>
Subject: 921 Anastasia Ave. (Structural Revision)

Sir:

On Friday I met briefly with you and the resident/owner of the referenced project who correctly indicated that the response to the original structural critique comments was included with the second submittal. The response sheet had been included within the body of the calculations and I inadvertently did not see it.

I reviewed the resubmittal package; Some of the original critique items were satisfied but the main or most important items still remain unresolved. Also, there has been a Change of Professional for this project. Thus, new Engineer of Record (EOR) must comply with the Florida Engineers Registration Law, Administrative Rule 61-G15-27.001 assuming full legal and professional responsibility for all the structural project permit documents including structural drawings, calculations, and review and approval of the corresponding shop drawings required for this project. The procedure for assuming another professionals' (engineering) work is quite common and, I am sure the new EOR is familiar with it.

Finally, I wanted to point out that in other cities where I have been employed, general employees are typically barred from meeting with elected officials unless approved the city manager. I hope not to have incurred any violation by meeting with you briefly with regard to the subject matter.

Attached is a copy of the second review comments for your perusal.

Thank you.

Dario Gonzalez, P.E., CBO, CFM

Structural Engineer - Building Division
City of Coral Gables
Development Services Department
405 Biltmore Way, Mezzanine
Coral Gables, FL 33134
Tel 305-460-5316
Fax 305-460-5261

type of administrative authority that must be under the day-to-day management authority of the City Manager (in contrast to the City Architect, for example, who was the subject of a prior interpretation/opinion; in this prior opinion, I opined that the City Architect would be required to be under the day-to-day management authority of the City Manager because the City Architect exercises administrative discretion under the direction of the City Manager as chief executive officer of the City). Instead, a Commission Aide would be helping the Commission or individual Commissioners in the performance of their policy making, legislative, and oversight functions, which is different than the City Manager's day-to-day administrative and management functions.

Please note, the Commission Aide would not have the authority to direct administrative staff, as individual Commissioners do not have the authority to direct administrative staff. The Commission Aide would have the authority to inquire (i.e. seek and receive information) on behalf of an individual City Commissioner, as individual Commissioners have authority to inquire under section 23 of the Charter. It is also important to note that the Commission Aide could not act as a liaison or conduit in any manner between individual Commissioners to ensure compliance with the Sunshine Law.

Ultimately, as the governing body of the City, particularly in light of the express wording in section 23 of the Charter, the City Commission has the authority to have a Commission Aide under its charge to assist it in its function, and the City Commission may direct the appointment or removal of the person filling that position.