



To: F.W. Zeke Guilford

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

RE: Declaration of Restrictive Covenants -- 6801 Granada

Date: March 21, 2016

I have reviewed the matter fully. As your client has already received approval from the Historic Preservation Board for being a sending site for TDRs, you may proceed with recording the restrictive covenant, as required by section 3-1007 of the Zoning Code. Of course, please have the covenant reviewed and approved by my office for form and legal sufficiency.

You would then be entitled to issuance of a Certificate of TDR, if it has not been issued already. Pursuant to section 3-1009 of the Zoning Code, the Certificate is valid for up to 2 years from issuance in accordance with section 1-111 of the Zoning Code (allowing for a period of 18 months and providing for a 6 month extension).

It is my understanding that the TDRs were originally designated for the 2020 Salzedo project. Please confirm with City staff that no TDRs were used for this project. If so, you have asked whether the developer of 2020 Salzedo could apply the TDRs to another project. The Zoning Code does not address this specific situation, although it does not prevent what you are requesting assuming other legal requirements are met. It is also in the public interest to receive the restrictive covenant being placed on the sending site.

Accordingly, in my legal opinion on behalf of the City, the developer of the 2020 Salzedo project could apply the TDRs to another project within the time limit provided if the new receiver site complies with the requirements of Article 3, Division 10 of the Zoning Code, including Planning & Zoning Board review and, most importantly, City Commission approval. Please note, a restrictive covenant would also be required for the receiving site consistent with section 3-1007 of the Zoning Code.

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.

Prepared by:
F.W. Zeke Guilford, Esq.
400 University Drive
Suite 201
Coral Gables, FL 33134

DECLARATION OF RESTRICTIVE COVENANTS

KNOWN ALL BY THESE PRESENT, that **CALIFON COMPANY, N.V.**, a Netherland Antilles corporation, hereinafter referred to as “**OWNER**”, hereby makes, declares, and imposes on the land herein described, the covenants running with the title to the land, which shall be binding on the Owners, their heirs, successors, and assigns, personal representatives, mortgagees, lessees, and against all persons claiming by through or under them;

WHEREAS, OWNER holds the fee simple title to the land in the City of Coral Gables, Florida, described as:

Lots 1 and 2, of Cartee Homestead II according to the Plat thereof as recorded in Plat Book __ at Page __ of the Public Records of Miami-Dade County.

WHEREAS, OWNER submitted an application to the Planning Department of the City of Coral Gables, requesting the following:

Conditional use review for a Building Site Determination; and
Zoning Code Text Amendment to recognize the establishment of two building sites; and
Final Plat for the above described property.

WHEREAS, the City of Coral Gables is requiring that the OWNER provide a Restrictive Covenant as part and parcel of the approval agreeing to certain condition.

NOW, THEREFORE, IN ORDER TO ASSURE the City of Coral Gables that the representations made by the OWNER in connection with the approvals by the City and issuance of a certificate of use and occupancy will be abided by, the OWNER freely, voluntarily, and without duress, makes the following Declaration of Restrictive Covenant covering and running with the Property and agrees as follows;

1. The above recitations are true and correct and are incorporated herein in their entirety.
2. The existing historical residence remain on Lot 1 and the new single family residence constructed on Lot 2 shall meet all applicable requirements of the Zoning Code, and variances shall be required or obtained.

3. Retain the loggia of the existing historic residence located on Lot 1 that is noted on the plans as “existing pool pavilion.

4. Any new construction on Lot 2 will require a Special Certificate of Appropriateness and review by the Historic Preservation Board. The demolition of the portion of the perimeter coral rock wall to accommodate the driveway for the new residence on Lot 2 will also be part of the application for that residence and will require Certificate of Appropriateness.

5. The removal/relocation of trees on Lot 2 will be part of the application for the new residence and will require a Certificate of Appropriateness from the Historical Resources Department, and shall also be subject to review and approval by the Directors of Public Service and Planning and Zoning. No tree removal or relocation s will occur until the design of the new residence on Lot 2 has been approved and a detailed landscape plan including an existing tree survey indicating those trees to be removed, relocated or replaced and a root preservation plan shall be prepared and provided by the owner of Lot 2 and submitted with the application for the new residence. A landscape Plan shall be recorded for Lot 2 that depicts all specimen trees that are to be preserved and /or relocated on the site pursuant to Article II, Chapter 82 of the City Code.

6. The total square footage of the two (2) residences shall be equal to or less than 39,574 square feet, which would be the maximum size of a residence permitted by the Zoning Code that could be constructed on the property if developed as a single building site.

7. Within sixty (60) days of approval of the Conditional Use Review of a Building Site Determination, the property owner, its successors or assigns shall take action to remove the dock encroachment and any other encroachments.

8. The owner of Lot 2 shall not allow any construction vehicles to be located on the swale during construction and shall provide the City with a construction management plan indicating the location of construction vehicles.

9. The owner of Lot 1 agrees that it will not request a subdivision of Lot 1 into two (2) building sites.

10. As further part of this Declaration, it is hereby understood and agreed that any official inspector of the City of Coral Gables, or its agents duly authorized, may have the privilege at any time during normal working hours of entering and inspecting the premises to determine whether or not the requirements of the Building and Zoning regulations and the conditions herein agreed to are being complied with.

11. This Declaration on the part of the OWNER shall constitute a covenant running with the land and may be recorded, at the OWNER’s expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned OWNER, its successors and assigns until such time as the same is modified or

released. These restrictions shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the public welfare.

12. This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded after which time it shall be extended automatically for successive periods of ten (10) years unless sooner terminated by the City Commission.

13. This Declaration of Restrictive Covenant may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the then owner(s) of all of the Property, or if the property has been submitted to a condominium form of ownership, by an authorized representative of the condominium association responsible to manage the condominium, in lieu of all the property owners, including joinders of all mortgagees, if any, provided that the same is also approved by the City of Coral Gables. Should this Declaration of Restrictions be so modified, amended or released, the City shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

14. Enforcement shall be by action at law or in equity against any parties or person violating, or attempting to violate, any covenants, either to restrain violations or to recover damages. The prevailing party in any action or suit pertaining to or arising out of this declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of their attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity, or both.

15. In the event the terms of this Declaration are not being complied with, in addition to any other remedies available, the City is hereby authorized to withhold any further permits and refuse to make any inspections or grant any approvals, until such time as there is compliance with this Declaration.

16. All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

17. Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the City, and inspections made and approval of occupancy given by the City, then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with this Declaration.

18. Invalidation of any of these covenants by judgment or Court shall not affect any of the other provisions, which shall remain in full force and effect.

19. This Declaration shall be filed of record in the public records of Miami-Dade County, Florida at the cost of the Owner.

ACKNOWLEDGEMENT

Signed, sealed, executed, and acknowledged on this ____ of _____, 2014.

Witness:

CALIFON COMPANY, a Netherland Antilles corporation

Print Name:

By: _____

Print Name:

Print Name: _____

Address: _____

STATE OF FLORIDA)

)

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this ___ day of _____ by _____ on behalf of _____, who is personally known to me or who produced _____ identification.

Notary Public State of Florida
Print Name: _____

Commission No.: _____

Commission Expires: _____

From: [Leen, Craig](#)
To: [Paulk, Enga](#)
Subject: FW: Declaration of Restrictive Covenants -- 6801 Granada
Date: Monday, March 21, 2016 12:36:48 AM
Attachments: [Declaration of Restrictive Covenants -- Temple Judea 5 6 2014 \(review 2\).doc](#)
[image001.png](#)

Please publish.

Craig E. Leen, City Attorney

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



CORAL GABLES
THE CITY BEAUTIFUL

Celebrating 90 years of a dream realized.

From: Leen, Craig
Sent: Monday, March 21, 2016 12:34 AM
To: 'Zeke Guilford'
Cc: Spain, Dona; Ramos, Miriam; Figueroa, Yaneris; Chen, Brigette
Subject: FW: Declaration of Restrictive Covenants -- 6801 Granada

Mr. Guilford,

I have reviewed the matter fully. As your client has already received approval from the Historic Preservation Board for being a sending site for TDRs, you may proceed with recording the restrictive covenant, as required by section 3-1007 of the Zoning Code. Of course, please have the covenant reviewed and approved by my office for form and legal sufficiency.

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City of Coral Gables

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CORAL GABLES
THE CITY BEAUTIFUL

Celebrating 90 years of a dream realized.

From: Zeke Guilford [mailto:ZGuilford@guilfordassoc.com]
Sent: Monday, March 07, 2016 8:50 AM
To: Leen, Craig
Cc: Jorge A Dalmau
Subject: FW: Declaration of Restrictive Covenants -- 6801 Granada

Craig:

I sent this to you some time ago and don't remember if I ever received a response. The client is now in the process of pulling the permit for the vacant lot and needs the covenant to proceed. Please let me know if I can finalize the covenant and deliver to the city for recording. Thank you.

Zeke

From: Zeke Guilford
Sent: Wednesday, August 20, 2014 11:34 AM
To: Leen, Craig
Subject: Declaration of Restrictive Covenants -- 6801 Granada

Craig:

Please find attached the draft restrictive covenant for 6801 Granada Blvd. I want to point out a couple of items as you read the document:

1. The plat book and page number are missing – the plat has not been recorded yet. We are waiting for the lender to sign.
2. I did not say the Lot 2 will be 130 feet in street frontage. This is represented by the plat.
3. The condition regarding the tree survey is as written in the commission cover memo, but I think it should say that it is attached to the covenant.

Once you have had a chance to review, please let me know of any comments.

Zeke