CAO 2013-007

To: Eric Kleinman

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

RE: Legal Opinion Regarding Building Permit For New Home On A New Address

Date: January 24, 2013

I have reviewed your question with the appropriate City staff, and considered the matter. It is the City's view that because this involves a conditional use, the following provision is the one that applies:

Section 3-411. Expiration of approval.
An application for a building permit shall be made within one (1) year of the date of the conditional use approval, and all required certificates of occupancy shall be obtained within one (1) year of the date of issuance of the initial building permit. Permitted time frames do not change with successive owners and an extension of time may be granted by the Development Review Official for a period not to exceed two (2) years but only within the original period of validity.

I have informed the Development Services Director, Jane Tompkins, of your inquiry, and her Department is available to assist you regarding application of this provision to your specific case.

Hernandez, Cristina

From: Leen, Craig
Sent: Thursday, January 24, 2013 6:38 PM
To: Hernandez, Cristina
Subject: FW: 5:00zo 1242 and 1248 Coral Way

Please place in opinion folder.

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
Sent: Thursday, January 24, 2013 6:38 PM
To: 'Eric Kleinman'
Cc: 'bthornton@coralgables.com'; Tompkins, Jane; Trias, Ramon
Subject: RE: 5:00zo 1242 and 1248 Coral Way

Mr. Kleinman,

I have reviewed your question with the appropriate City staff, and considered the matter. It is the City's view that because this involves a conditional use, the following provision is the one that applies:

Section 3-411. Expiration of approval.
An application for a building permit shall be made within one (1) year of the date of the conditional use approval, and all required certificates of occupancy shall be obtained within one (1) year of the date of issuance of the initial building permit. Permitted time frames do not change with successive owners and an extension of time may be granted by the Development Review Official for a period not to exceed two (2) years but only within the original period of validity.

I have informed the Development Services Director, Jane Tompkins, of your inquiry, and her Department is available to assist you regarding application of this provision to your specific case. I am copying both her and the Director of Planning and Zoning (Ramon Trias) on this email.

Please let me know if you have any further questions.

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: Eric Kleinman [mailto:esk@ka-law.net]
Sent: Thursday, January 24, 2013 10:16 AM
To: Thornton Richard, Bridgette; Leen, Craig
Cc: Osle, Zilma
Subject: RE: 5:00zo 1242 and 1248 Coral Way

Mr. Leen,

Please let me know if you were able to address our question. I am reachable anytime today. Thanks.

Eric S. Kleinman
Kleinman & Arrizabalaga, PA
K & A Mediation
Chase Bank Building
150 SE 2nd Avenue
Suite 1105
Miami, Florida 33131
www.ka-law.net
Phone: 305-377-2728
Fax: 305-377-8390

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----- Original Message -----
From: "Leen, Craig"
To: Eric Kleinman , "Thornton Richard, Bridgette"
Sent: 1/21/2013 8:23PM
Subject: RE: 5:00zo 1242 and 1248 Coral Way

Mr. Kleinman,

I am sorry we were not able to speak on Friday afternoon, and appreciate your understanding. I will be meeting with City staff (likely on Tuesday after the Commission meeting) to discuss the issue you have raised, and will get back to you with an answer on Tuesday or Wednesday.

Best regards,

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: Eric Kleinman [mailto:esk@ka-law.net]
Sent: Saturday, January 19, 2013 6:01 PM
To: 'esk@ka-law.net'; Thornton Richard, Bridgette; Leen, Craig
Subject: RE: 5:00zo 1242 and 1248 Coral Way

We were never able to speak on Friday. Please call my office next week at your convenience. Also, my cell phone is 305-495-5719.

Eric S. Kleinman

Kleinman & Arrizabalaga, PA

K & A Mediation

Chase Bank Building

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Miami, Florida 33131

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----- Original Message -----

From: "Eric Kleinman"

To: "'esk@ka-law.net'" ,"Thornton Richard, Bridgette" ,"Leen, Craig"

Sent: 1/17/2013 10:48AM

Subject: RE: 5:00zo 1242 and 1248 Coral Way

Thank you. Please note that after we spoke about scheduling, my afternoon mediation cancelled. So, if you would like to have this call a little earlier than 5pm on a Friday, I am now available. Just let me know. Otherwise, we will talk at 5. Thanks.

Eric S. Kleinman

Kleinman & Arrizabalaga, PA

K & A Mediation

Chase Bank Building

150 SE 2nd Avenue

Suite 1105

Miami, Florida 33131

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----- Original Message -----

From: "Leen, Craig"

To: "'esk@ka-law.net'" , "Thornton Richard, Bridgette"

Sent: 1/17/2013 9:48AM

Subject: 5:00zo 1242 and 1248 Coral Way

When: Friday, January 18, 2013 5:00 PM-5:30 PM (GMT-05:00) Eastern Time (US & Canada).

Where: Telephone Conference - City Attorney will initiate the call to 305-377-2728

Note: The GMT offset above does not reflect daylight saving time adjustments.

~~*~*~*~*~*~*~*~*~*

Mr. Kleinman 305-377-2728

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Hernandez, Cristina

From: Leen, Craig
Sent: Thursday, January 24, 2013 6:39 PM
To: Hernandez, Cristina
Subject: FW: 1242 and 1248 Coral Way

Please place this in the opinion folder along with my prior email. This email gives the background question for that opinion.

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: Eric Kleinman [mailto:esk@ka-law.net]
Sent: Thursday, January 10, 2013 12:10 PM
To: Leen, Craig; Thornton Richard, Bridgette
Subject: 1242 and 1248 Coral Way

Mr. Leen and Ms. Thornton,

I am part of the ownership group that owns 1248 and 1242 Coral Way. A historic home sits on 1248 and we are in the final stages to obtaining a permit to begin our renovation. 1242 is an adjacent empty lot. When we purchased the property it had only one address (1248) but we were granted building site separation about 4 months ago and a new address was issued for the empty lot (now 1242). While we are working up plans for the development of a new house on 1242, we want to make sure that we fully understand our options for our own planning purposes. This is where we need your help.

3-206(J) says that, "A determination that a parcel is a lawful building site by the Department of Building and Zoning shall be effective for a period of one (1) year. If a building permit is not obtained in this one (1) year period, such determination shall be null and void."

Can you clarify - does "obtained" mean that we must have fully completed the permitting process and have had a building permit issued for a new home within one year? Does it mean that we must only have submitted for permitting within one year? Does it mean something else, like pulling a permit for something less than a new home? Please help us understand so that we can plan accordingly. As an alternative, the code seems silent as to the potential to extend the one year period. Is this a possibility? If so, what is the process and is there an extension fee?

Again, any clarification you can give us is appreciated and will help us plan how and what we do in the near future at 1242. Thanks again. Please reply or call if you have any questions.

Eric S. Kleinman
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150 SE 2nd Avenue
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