



To: Bruce Libhaber

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" in the "From:" field.

RE: Legal Opinion Regarding Jurisdiction of County Owned Properties

Date: December 4, 2014

I informed City staff that I believed we had concurrent zoning and regulatory jurisdiction based on Article VI of the County Charter, which indicates in section 6.02 that "[e]ach municipality may provide for higher standards of zoning, service, and regulation than those provided by the Board of County Commissioners in order that its individual character and standards may be preserved for its citizens." (emphasis added). The City's view has been, and continues to be, that the County is required by the Charter to comply with any higher standards of zoning or regulation placed by the City on work or structures within the City limits of Coral Gables. The City believes it has concurrent regulatory jurisdiction as to any higher standards. I reviewed the two cases you sent, and neither addresses this section of the Charter. Even if they had addressed this section of the Charter, however, I think there is a significant difference between a County airport that happens to be in a municipality, and parking facilities adjacent to a Metrorail station in the heart of Coral Gables. The aesthetics, design, and structure of the parking facilities are easily visible by City residents and visitors, and affect the "individual character" of the City in a way that directly implicates Article 6. Accordingly, I do not believe the two cases you cited are controlling on the issue we are discussing, and believe instead that the County Charter provision would control.

Ultimately, this discussion is largely hypothetical, as we have always been able to work this issue out in the past. I am certain we can work it out here as well. The City would like to be more involved in the process though. I will call you to discuss on Friday.

Parramore, Carol

From: Leen, Craig
Sent: Thursday, December 04, 2014 5:41 PM
To: Parramore, Carol
Cc: Thornton, Bridgette
Subject: yfFW: Please contact City of Coral Gables Attorney-- Jurisdiction of County Owned properties

Please place in the opinion folder.

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

From: Leen, Craig
Sent: Thursday, December 04, 2014 5:36 PM
To: 'Libhaber, Bruce (CAO)'
Cc: Bokor, Alexander (CAO)
Subject: RE: Please contact City of Coral Gables Attorney-- Jurisdiction of County Owned properties

Good afternoon, Bruce. I informed City staff that I believed we had concurrent zoning and regulatory jurisdiction based on Article VI of the County Charter, which indicates in section 6.02 that “[e]ach municipality may provide for higher standards of zoning, service, and regulation than those provided by the Board of County Commissioners in order that its individual character and standards may be preserved for its citizens.” (emphasis added). The City’s view has been, and continues to be, that the County is required by the Charter to comply with any higher standards of zoning or regulation placed by the City on work or structures within the City limits of Coral Gables. The City believes it has concurrent regulatory jurisdiction as to any higher standards. I reviewed the two cases you sent, and neither addresses this section of the Charter. Even if they had addressed this section of the Charter, however, I think there is a significant difference between a County airport that happens to be in a municipality, and parking facilities adjacent to a Metrorail station in the heart of Coral Gables. The aesthetics, design, and structure of the parking facilities are easily visible by City residents and visitors, and affect the “individual character” of the City in a way that directly implicates Article 6. Accordingly, I do not believe the two cases you cited are controlling on the issue we are discussing, and believe instead that the County Charter provision would control.

Ultimately, this discussion is largely hypothetical, as we have always been able to work this issue out in the past. I am certain we can work it out here as well. The City would like to be more involved in the process though. I will call you to discuss on Friday.

Best regards,
Craig

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

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Email: cleen@coralgables.com

From: Libhaber, Bruce (CAO) [<mailto:BRUCE2@miamidade.gov>]

Sent: Thursday, December 04, 2014 4:09 PM

To: Leen, Craig

Cc: Bokor, Alexander (CAO)

Subject: FW: Please contact City of Coral Gables Attorney-- Jurisdiction of County Owned properties

Craig:

I have received this email from Miami-Dade Transit staff. Apparently, you have opined that Coral Gables has jurisdiction over the parking facilities serving Metrorail stations within the City of Coral Gables. Respectfully, we would disagree. For your reference, please find two DCA opinions (one from the Third and one from the Fourth) which have interpreted the relevant Statutory provisions. (Florida Statutes 125.011 and 125.015). In the definition of Project in Section 125.011, the very first listed item is "Public Mass transportation".

There is also a Florida Attorney General opinion interpreting this statute and concurring with this plain reading of the statute. If you view this matter differently, please let me know what you are relying upon for that conclusion. If you agree with my opinion, please let me know so that I may convey that to the relevant Miami-Dade Transit staff.

nope all is well.

Sincerely,

Bruce

From: Capote, Orlando D. (MDT)

Sent: Thursday, December 04, 2014 10:01 AM

To: Libhaber, Bruce (CAO)

Cc: Padron, Isabel (MDT); Baez, Froilan I. (MDT); Wilson, Carol (MDT)

Subject: Please contact City of Coral Gables Attorney-- Jurisdiction of County Owned properties

Re: Authority Having Jurisdiction over the MDT parking lot at the University Metrorail Station.

Bruce:

Virginia Goizueta, of the City of Coral Gables, has informed me that Craig Leen considers the Metrorail station parking lot to be under the Jurisdiction of the City of Coral Gables. Virginia also said that any further communication regarding this issue should be directly with Craig Leen. Please contact Mr. Leen at the City of Coral Gables regarding this issue.

The following information and the attached court cases were presented to the City of Miami regarding jurisdiction over construction work at the Metromover stations. The City of Miami attorney agreed the stations were under the jurisdiction of MDC.

The Florida Statutes 125.011 contain the definitions of what is a project, which includes mass transportation facilities. The Miami-Dade County owned parking lot for the University Metrorail Station meets the criteria defined in F.S 125.011.

The Florida Statutes 125.015 states:

"Any county coming within the provisions hereof shall have the power to acquire by purchase or condemnation the docks, wharves, warehouses, and other port facilities or any project (as herein defined) of any municipality within such county. Any project owned or operated by such county and lying within the boundaries of a municipality shall be under the exclusive jurisdiction of the county and shall be without the jurisdiction of said municipality."

There are two attached law cases, Opa Locka v. Dade county and City of Dania v. Hertz. In both cases, the ruling was the County had jurisdiction.

If you need any other information, please feel free to contact me.
Thank you.