



To: Susan L. Trevarthen; Charles Wu

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 text of the "From:" field.

RE: Legal Opinion Regarding City Of Coral Gables Enforce Miami-Dade County Code

Date: October 29, 2014

---

I have generally given interpretations in this area that authorize the City to enforce the County Code as a minimum standard, while respecting the City's prosecutorial and interpretive discretion when the City does so. Ultimately, Article 6 of the County Charter does grant the City authority to have a higher standard of zoning and services (and in my view this authority cannot be abrogated by County ordinance, only by a Charter amendment). I agree with you that the City has authority to enforce the County Code on the points below.

## Parramore, Carol

---

**From:** Leen, Craig  
**Sent:** Wednesday, October 29, 2014 3:10 PM  
**To:** Parramore, Carol  
**Subject:** FW: Tree mitigation inquiry

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](mailto:cleen@coralgables.com)

---

**From:** Leen, Craig  
**Sent:** Wednesday, October 29, 2014 3:09 PM  
**To:** 'Susan L. Trevarthen'; Wu, Charles  
**Cc:** Tompkins, Jane; Elisa N. Bramble  
**Subject:** RE: Tree mitigation inquiry

Thank you, Susan. This is very helpful. I have generally given interpretations in this area that authorize the City to enforce the County Code as a minimum standard, while respecting the City's prosecutorial and interpretive discretion when the City does so. Ultimately, Article 6 of the County Charter does grant the City authority to have a higher standard of zoning and services (and in my view this authority cannot be abrogated by County ordinance, only by a Charter amendment). I agree with you that the City has authority to enforce the County Code on the points below.

**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](mailto:cleen@coralgables.com)

---

**From:** Susan L. Trevarthen [<mailto:STrevarthen@wsh-law.com>]  
**Sent:** Wednesday, October 29, 2014 1:44 PM  
**To:** Wu, Charles  
**Cc:** Tompkins, Jane; Leen, Craig; Elisa N. Bramble  
**Subject:** Tree mitigation inquiry

You asked us whether, in absence of an specific provisions in the City's Code of Ordinances regarding tree mitigation or payments in lieu, the City may utilize or enforce provisions of the Miami-Dade County Code on this subject matter. The short answer to this question is yes. Chapter 24 of the County Code establishes, among other environmental protection

programs, a Tree and Forest Program for the purpose of protecting, preserving and replacing certain trees. With respect to this program, Sec. 24-2, County Code ("Declaration of legislative intent"), provides in pertinent part:

*This program shall be a minimum standard and shall apply to both the incorporated and unincorporated areas, and in the unincorporated areas shall be enforced by the Department of Environmental Resources Management, and in the incorporated areas shall be enforced by the municipalities, unless the County is notified by a municipality, in the form of a letter from an official of the municipality or by resolution, that the municipality desires the County to enforce the Miami-Dade County Tree and Forest Program within the municipality. Any municipality may establish and enforce its own ordinance provided such ordinance is equivalent to or more stringent than the provisions of Ordinance Number 89-8.*

Similarly, Sec. 24-49(2), which specifically regarding permits for tree removal and relocation, provides that "No municipal or County official shall issue a tree removal permit that does not comply with the provisions of this section..." Thus, under these provisions, the City must apply the applicable provisions of Chapter 24 of the County Code, including the provisions on tree preservation and protection in Division 2 of this chapter.

Please advise if you need anything further or would like to discuss this matter. Thanks.

---

From: "Wu, Charles" <[cwu@coralgables.com](mailto:cwu@coralgables.com)>  
Date: October 16, 2014 at 8:55:41 AM EDT  
To: "Susan L. Trevarthen" <[STrevarthen@wsh-law.com](mailto:STrevarthen@wsh-law.com)>  
Subject: tree protection

Hi Susan.

I remembered last year when you helped us draft a letter to the resident on the Lisbon tree issue, that you said the county code on tree protection prevails if our code does not cover certain items. Our code does not have tree mitigation specifics or payment in lieu of. Can we use the county code for those issues?

Thanks.

charles

Please Note: Florida has a very broad Public Records Law. Most written communications to or from State and Local Officials regarding State or Local business are public records available to the public and media upon request. Your email communications may therefore be subject to public disclosure.

Susan Trevarthen

Member, Board Certified in City, County and Local Government Law

**WEISS SEROTA HELFMAN  
COLE BIERMAN & POPOK**

200 East Broward Blvd., Suite 1900 | Fort Lauderdale, FL 33301  
P: (954) 763-4242 F: (954) 764-7770 [wsh-law.com](http://wsh-law.com) | vCard



**THINK BEFORE YOU PRINT**

This message, together with any attachments, is intended only for the addressee. It may contain information which is legally privileged, confidential and exempt from disclosure. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, use, or any action in reliance on this communication is strictly prohibited. If you have received this e-mail in error, please notify the sender immediately by telephone at (954) 763-4242 or by return e-mail and delete the message, along with any attachments.

Tax Advice Disclosure: To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax

advice contained in this communication (including any attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein.

