



To: Raul Villaverde, Wilson W. Sims

From: Miriam S. Ramos, Deputy City Attorney for the City of Coral Gables

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

A handwritten signature in blue ink, appearing to be "CL", is written over the word "Approved" in the previous block.

RE: Legal Opinion Regarding 20 E. Sunrise Avenue

Date: September 4, 2015

The property at 20 E. Sunrise Avenue is pending approval from the City. The property's design has been reviewed numerous times; several times by the City's Structural Engineer, by a peer reviewer and ultimately by the Florida Board of Professional Engineers (FBPE).

The FBPE is established under the Engineering Registration Law, Ch. 471, F.S. It is comprised of 11 members (9 are licensed engineering professionals and 2 are laypersons). It is responsible for reviewing applications, administering examinations, licensing qualified applicants and otherwise regulating the practice of engineering throughout the state. When warranted, the FBPE has the authority to discipline individuals and firms that practice engineering in the State of Florida. It has the power to suspend, revoke, or refuse to issue, restore or renew a Certificate of Authorization for a firm, or a Certificate of Licensure for an individual, or place on probation, fine or reprimand any firm, professional engineer, or individual found guilty of violating Ch. 455, F.S., Ch. 471, F.S. and/or Ch. 61G-15, Florida Administrative Code. Under Sec. 471.038, F.S., administrative, investigative and prosecutorial services are provided to the FBPE by the Florida Engineers Management Corporation (FEMC), a non-profit with the single purpose of operating through a contract with the Department of Business of Professional Regulation.

The City, through its Structural Engineer, invoked the authority of the FBPE/FEMC by filing a complaint against Mauricio Salazar-Lopez, the engineer on 20 E. Sunrise Avenue. In response, the FEMC conducted an investigation of the complaint which was reviewed by the legal staff and presented to the Probable Cause Panel of the FBPE. The Panel directed that the case be dismissed with the Letter of Guidance.

Paulk, Enga

From: Leen, Craig
Sent: Friday, September 04, 2015 3:04 PM
To: Paulk, Enga
Cc: Ramos, Miriam; Figueroa, Yaneris
Subject: FW: Legal Opinion re. 20 E. Sunrise Avenue
Attachments: Mauricio Salazar-Lopez .pdf

Please publish.

Craig E. Leen, City Attorney
*Board Certified by the Florida Bar in
City, County and Local Government Law*
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Email: cleen@coralgables.com



Celebrating 90 years of a dream realized.

From: Ramos, Miriam
Sent: Friday, September 04, 2015 1:04 PM
To: Miner, William; 'rvillaverde@tlvlegal.com'; 'wsims@sims-corp.com'
Cc: Tompkins, Jane; Leen, Craig; Figueroa, Yaneris; Granell, Chelsea; Lopez, Manuel
Subject: Legal Opinion re. 20 E. Sunrise Avenue

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reprimand any firm, professional engineer, or individual found guilty of violating Ch. 455, F.S., Ch. 471, F.S. and/or Ch. 61G-15, Florida Administrative Code. Under Sec. 471.038, F.S., administrative, investigative and prosecutorial services are provided to the FBPE by the Florida Engineers Management Corporation (FEMC), a non-profit with the single purpose of operating through a contract with the Department of Business of Professional Regulation.

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It is the legal opinion of the City Attorney's Office that the City must follow the decision of the FBPE, as detailed in the Letter of Guidance, in order to avoid subjecting itself to potential liability. While a defense of sovereign immunity would certainly be raised, it is not certain that it would be successful in defeating a claim on those grounds. This office respects the position of the City's Building Official but feels it is legally necessary that the City follow the FBPE's ruling. It is recommended that the City enter into a settlement agreement with the owner, to include a "hold harmless" clause whereby the owner of 20 E. Sunrise Avenue accepts full responsibility and waives all liability against the City.

This opinion is issued pursuant to Sec. 2-201(e)(1) and (8) of the City of Coral Gables Code, authorizing the City Attorney's Office to issue opinions and interpretations on behalf of the City.

Sincerely,

Miriam S. Ramos, Esq.
Deputy City Attorney
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(305) 460-5084 direct dial



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