



To: Jerry B. Proctor

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

A handwritten signature in blue ink, appearing to be "C. Leen", is written over the "From:" line.

RE: Legal Opinion Regarding Starbucks' Appeal

Date: October 7, 2016

---

This email confirms receipt of your letter of September 22, 2016, whereby Starbucks seeks to enter a plea of not guilty and appeal Uniform Civil Violation Notice #56357. The plea and appeal were due on August 2, 2016 pursuant to section 101-185 of the City Code (20 days following service of the notice). Accordingly, the appeal is untimely. Under section 101-186, a "timely request" is a prerequisite for the City to schedule an appeal. Starbucks' request is untimely so will not be scheduled for an appeal and is dismissed by the City for lack of jurisdiction.

In addition, the City would also note that Starbucks paid a civil penalty on August 16, 2016 related to the notice. By doing so, Starbucks elected to pay and pursue compliance under section 101-185(a)(1) of the City Code, instead of appealing under section 101-185(a)(2) of the City Code. By doing so, Starbucks waived any right to an administrative hearing. Section 101-185(c) establishes that "waiver of the right to an administrative hearing shall be treated as an admission of the violation and penalties may be assessed accordingly."

I have attached documents related to this response.

Please note, the City and Starbucks reached a separate tolling agreement on September 27th that relates to the drive through at issue. This email does not address the parties' respective rights under the tolling agreement. The City reserves all its rights related to the tolling agreement, and does not seek to diminish any of Starbucks' rights under that tolling agreement through this response.

**From:** [Leen, Craig](#)  
**To:** [Paulk, Enga](#)  
**Subject:** Fwd: Letter of September 22, 2016  
**Date:** Thursday, October 06, 2016 12:15:05 AM  
**Attachments:** [image002.png](#)  
[ATT00001.htm](#)  
[Sent from the Coral Gables Code Enforcement Department.pdf](#)  
[ATT00002.htm](#)

---

Please publish.

Sent from my iPhone

Begin forwarded message:

**From:** "Leen, Craig" <[cleen@coralgables.com](mailto:cleen@coralgables.com)>  
**Date:** October 5, 2016 at 4:54:53 PM EDT  
**To:** "[jproctor@bilzin.com](mailto:jproctor@bilzin.com)" <[jproctor@bilzin.com](mailto:jproctor@bilzin.com)>  
**Cc:** "Ramos, Miriam" <[mramos@coralgables.com](mailto:mramos@coralgables.com)>, "Ortiz, William" <[wortiz@coralgables.com](mailto:wortiz@coralgables.com)>  
**Subject:** Letter of September 22, 2016

Mr. Proctor,

This email confirms receipt of your letter of September 22, 2016, whereby Starbucks seeks to enter a plea of not guilty and appeal Uniform Civil Violation Notice #56357. The plea and appeal were due on August 2, 2016 pursuant to section 101-185 of the City Code (20 days following service of the notice). Accordingly, the appeal is untimely. Under section 101-186, a "timely request" is a prerequisite for the City to schedule an appeal. Starbucks' request is untimely so will not be scheduled for an appeal and is dismissed by the City for lack of jurisdiction.

In addition, the City would also note that Starbucks paid a civil penalty on August 16, 2016 related to the notice. By doing so, Starbucks elected to pay and pursue compliance under section 101-185(a)(1) of the City Code, instead of appealing under section 101-185(a)(2) of the City Code. By doing so, Starbucks waived any right to an administrative hearing. Section 101-185(c) establishes that "waiver of the right to an administrative hearing shall be treated as an admission of the violation and penalties may be assessed accordingly."

I have attached documents related to this response.

Please note, the City and Starbucks reached a separate tolling agreement on September 27<sup>th</sup> that relates to the drive through at issue. This email does not address the parties' respective rights under the tolling agreement. The City reserves all its rights related to the tolling agreement, and does not seek to diminish any of Starbucks'

rights under that tolling agreement through this response.

Please let me know if you have any questions.

**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)

September 22, 2016

**U.S. MAIL AND HAND DELIVERY**

Mr. William Ortiz, Director  
Code Enforcement Division  
City of Coral Gables  
427 Biltmore Way, Suite 100  
Coral Gables, FL 33134

**Re: Civil Violation Notice #56357**  
**Recipients: Inscore, LLC/Starbucks**  
**Property: 475 South Dixie Highway, City of Coral Gables**

Dear Mr. Ortiz:

Our firm represents Starbucks Coffee Company ("Starbucks").

Starbucks is a tenant at 475 South Dixie Highway (the "Property"). In connection with the Property, the City of Coral Gables issued the attached Uniform Civil Violation Notice #56357 (the "Notice") to "Inscore, LLC/Starbucks c/o Prime Care." The Notice alleged a violation of Section 5-115(A) of the City of Coral Gables Code for alleged "vehicle stacking onto right of way." Starbucks renews its denial previously filed with the City of the applicability of the referenced Code section, and the violation. To that end, please see the attached Written Plea of Not Guilty. While the Notice was not properly issued to Starbucks, and was thereafter stayed by agreement of the City, in an abundance of caution and for the avoidance of doubt, please consider this to be Starbucks' formal appeal of the Notice and request for a hearing, which reiterates its previous notices and request for a hearing.

Thank you.

Sincerely,



Jerry B. Proctor

MIAMI 5161076.3 73349/49012

## Frequently Called Numbers

Development Svcs Reception	305-460-5235
Code Enforcement Division	305-460-5226
Code Enforcement Board	305-460-5266
Ticket Appeal	305-460-5266
Building Director	305-460-5240
Building Official	305-460-5242
Electrical Official	305-460-5255
Plumbing Official	305-460-5258
Mechanical Official	305-460-5243
Zoning Information	305-460-5253
Fire Marshall	305-460-5581
Permit Status	305-460-5246
Board of Architects	305-460-5238
Construction Regulat. Board.	305-460-5229
Inspection Request	305-460-5245
Records	305-460-5262
Cert. of Use/Cbnturrency	305-460-5236
Planning & Zoning Division	305-460-5211
Public Works Department	305-460-5000
Historic Preservation-Dept.	305-460-5094

## Code Enforcement Office

427 Biltmore Way, Suite 100  
Coral Gables, FL 33134

Code Enforcement Office Hours:  
Monday through Friday  
7:30 A.M. to 3:30 P.M.

Code Enforcement  
**HOTLINE**  
305-441-5777

### Payment Method

If you choose to pay the citation  
within the time allocated,  
please make check or money order  
payable to:

The City of Coral Gables

Funds must be in U.S. dollars  
and drawn on a U.S. bank.

**Please do not mail cash!**

## WRITTEN PLEA OF NOT GUILTY

Starbucks

Alleged Violator's Name

T56357/CE263596

Citation Number

Comes now the alleged violator in the above  
styled cause individually and informs the  
Clerk of the Code Enforcement Board that:

*I hereby enter my plea of not guilty  
and request an administrative hearing.*

September 22, 2016

Date  
C/O Jerry Proctor, Esq.  
Bilzin Sumberg, 1450 Brickell Ave  
Address Suite 2300

Miami, FL 33131

City State Zip

305-350-2361

Telephone

If you have elected  
to plea not guilty, please:

1. Complete form
2. Include form and a copy of your  
citation in the envelope provided
3. Apply a first class stamp and mail or  
drop off at Code Enforcement Office.

# CITY OF CORAL GABLES, FLORIDA UNIFORM CIVIL VIOLATION NOTICE

NO. T-7 58357

CE 263596

DATE ISSUED 7/13/16 TIME 6:45p CODE INSPECTOR A136 DEPT./DIV. CE/1330 I.D. NO. 8320  
 NAME OF VIOLATOR(S) INSCORE LLC / STARBUCKS FOLIO# \_\_\_\_\_  
475 S. DIXIE HWY CORAL GABLES, FL 33136 REPEAT VIOLATOR \_\_\_\_\_  
 MAILING ADDRESS OF VIOLATOR (Street, City, State, and Zip) YES \_\_\_\_\_ NO \_\_\_\_\_

DRIVER'S LICENSE # \_\_\_\_\_

MAKE \_\_\_\_\_ MODEL \_\_\_\_\_ COLOR \_\_\_\_\_ TAG \_\_\_\_\_ STATE \_\_\_\_\_

THIS NOTICE SUMMONS YOU TO ANSWER THE COMPLAINT THAT ON THE FOLLOWING DATE

7/13/16 AT 6:45 AM/PM VIOLATION OF SECTION 5-115(A) OF THE ZONING CODE WAS OBSERVED

TO WIT: (DESCRIPTION OF VIOLATION) VEHICLE STARKING ONTO RIGHT OF WAY.

AT 475 S. DIXIE HWY (STARBUCKS) LOCATION OF VIOLATION

YOU SHALL PAY THE CIVIL PENALTY OF \$ 250<sup>00</sup> 1 DAY UNTIL FURTHER NOTICE PLEASE CORRECT THE VIOLATION ON

OR BEFORE 7/13/16 YOU MAY REQUEST AN ADMINISTRATIVE HEARING BEFORE A HEARING OFFICER TO APPEAL THE DECISION OF THE CODE OFFICER ON OR

BEFORE 8/2/16 (See Instructions On Reverse Side)

FAILURE TO PAY CIVIL PENALTY AND CORRECT VIOLATION OR FILE A REQUEST FOR ADMINISTRATIVE HEARING BY THE DATE SHOWN SHALL CONSTITUTE A WAIVER OF YOUR RIGHT TO HEARING AND SUCH WAIVER SHALL CONSTITUTE AN ADMISSION OF VIOLATION. EACH DAY OF CONTINUED VIOLATION SHALL BE DEEMED A CONTINUING VIOLATION SUBJECT TO ADDITIONAL PENALTY IN THE SAME AMOUNT WITHOUT THE NEED FOR ISSUANCE OF ADDITIONAL CIVIL VIOLATION NOTICE.

I ACKNOWLEDGE RECEIPT OF THIS CIVIL VIOLATION NOTICE. I UNDERSTAND THAT ACCEPTANCE OF THIS VIOLATION NOTICE IS NOT AN ADMISSION OF GUILT.

POSTED  
 VIOLATOR \_\_\_\_\_ DATE 7/13/16  
A GARCIA (305) 569-1829 DATE 7/13/16  
 CODE ENFORCEMENT OFFICER \_\_\_\_\_  
 SERVICE: PERSON \_\_\_\_\_ MAIL  POSTING



City of Coral Gables  
Dev Services  
405 Biltmore  
Coral Gables, FL 33134  
Welcome

002980-0003 WILMA Y. 08/16/2016 08:02AM

PERMITS & INSPECTIONS

INSCORE LLC C/O PRIME CARE  
CE-16-08-5817  
CODE ENF TICKET PROCESS -  
NO RUNNING FINE  
GOVQA TICKET -  
CE263596/T56357

pending

2016 Item: CE-16-08-5817 250.00

-----  
250.00

Subtotal 250.00

Total 250.00

CHECK 250.00

Check Number 1030157462

Change due 0.00

Paid by: INSCORE LLC C/O PRIME CARE

Thank you for your payment

CUSTOMER COPY

STARBUCKS COFFEE COMPANY  
 2401 UTAH AVE SOUTH  
 PO BOX 34067, MAIL STOP S-AC3  
 SEATTLE, WA 98124-1067



RETURN SERVICE REQUESTED

Check No. 1030157462  
 Check Date 07/28/2016  
 Check Amount \$250.00  
 Vendor No. 62214



US-000022 0001 0001 000022  
 CORAL GABLES FLORIDA  
 CODE ENFORCEMENT DIVISION  
 427 BILTMORE WAY STE 100  
 CORAL GABLES FL 33134-5735

2016 JUL 32 PM 12:33

Invoice Date	Invoice Number	Description	Invoice Amount	Discount	Net Amount
07/27/2016	CKR25000072516	FINE - STORE 11784	\$250.00		\$250.00
<b>TOTAL</b>					<b>\$250.00</b>

# CITY OF CORAL GABLES, FLORIDA UNIFORM CIVIL VIOLATION NOTICE

City of Coral Gables  
Uniform Civil Violation Notice  
Affidavit of Posting  
Code Enforcement Division

TV

NO. **T 56357**

**CE263596**

DATE ISSUED: 7/13/16 TIME: 6:45p CODE INSPECTOR: AB6 DEPT/DIV: CE/1230 I.D. NO: 8320

NAME OF VIOLATOR(S): INSCORE LLC / STARBUCKS  
o/p PRIME CARE

REPEAT VIOLATOR  
YES \_\_\_\_\_ NO \_\_\_\_\_

MAILING ADDRESS OF VIOLATOR (Street, City, State, and Zip):  
475 S. DIXIE HWY CORAL GABLES, FL 33146

DRIVER'S LICENSE # \_\_\_\_\_

MAKE \_\_\_\_\_ MODEL \_\_\_\_\_ COLOR \_\_\_\_\_ TAG \_\_\_\_\_ STATE \_\_\_\_\_

THIS NOTICE SUMMONS YOU TO ANSWER THE COMPLAINT THAT ON THE FOLLOWING DATE  
7/13/16 AT 6:45 AM/PM VIOLATION OF SECTION  
5-115(A) OF THE  
ZONING CODE WAS OBSERVED

TO WIT: (DESCRIPTION OF VIOLATION) VEHICLE STACKING ON TO  
RIGHT OF WAY.

AT 475 S. DIXIE HWY (STARBUCKS)  
LOCATION OF VIOLATION

YOU SHALL PAY THE CIVIL PENALTY OF \$ 250.00 A DAY UNTIL FURTHER NOTICE. PLEASE CORRECT THE VIOLATION ON

OR BEFORE 7/13/16. YOU MAY REQUEST AN ADMINISTRATIVE HEARING BEFORE A HEARING OFFICER TO APPEAL THE DECISION OF THE CODE OFFICER ON OR

BEFORE 8/2/16  
(See Instructions On Reverse Side)

FAILURE TO PAY CIVIL PENALTY AND CORRECT VIOLATION OR FILE A REQUEST FOR ADMINISTRATIVE HEARING BY THE DATE SHOWN SHALL CONSTITUTE A WAIVER OF YOUR RIGHT TO HEARING AND SUCH WAIVER SHALL CONSTITUTE AN ADMISSION OF VIOLATION. EACH DAY OF CONTINUED VIOLATION SHALL BE DEEMED A CONTINUING VIOLATION SUBJECT TO ADDITIONAL PENALTY IN THE SAME AMOUNT WITHOUT THE NEED FOR ISSUANCE OF ADDITIONAL CIVIL VIOLATION NOTICE.

I ACKNOWLEDGE RECEIPT OF THIS CIVIL VIOLATION NOTICE. I UNDERSTAND THAT ACCEPTANCE OF THIS VIOLATION NOTICE IS NOT AN ADMISSION OF GUILT.

POSTED  
VIOLATOR: A. GARCIA (305) 569-1829  
CODE ENFORCEMENT OFFICER

DATE: 7/13/16

DATE: 7/13/16

SERVICE: PERSON \_\_\_\_\_ MAIL

POSTING

Ticket #: T56357  
CE263596

I, ADOLFO GARCIA

DO HEREBY SWEAR/AFFIRM THAT THE  
AFOREMENTIONED CITATION WAS  
PERSONALLY POSTED, BY ME, AT THE  
ADDRESS OF  
475 S. DIXIE HWY, IN  
COMPLIANCE WITH SECTION 101-183  
OF THE CORAL GABLES CODE OF  
ORDINANCES, ON  
7/13/16 AT 6:59p.

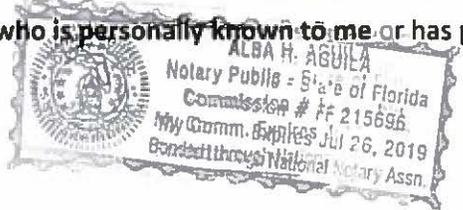
Adolfo Garcia  
SIGNATURE OF OFFICER

91 7108 2133 3932 6151 9200  
91 7108 2133 3932 6151 9217 R.A.

SS. COUNTY OF MIAMI-DADE )

Sworn to (or affirmed) and subscribed before me this 13<sup>th</sup> day of July, in the year 2016, by  
ADOLFO GARCIA who is personally known to me or has produced \_\_\_\_\_ as identification.

My Commission Expires:



Gee H  
Notary Public