



To: City Commission

From: 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 name "Craig E. Leen" in the "From:" field.

RE: Legal Opinion Regarding Authority Of The City Attorney To Issue Legal Opinions

Date: August 17, 2011

The City Attorney's Office has received numerous requests during the past four months for legal opinions relating to interpretations of the Charter, the City and Zoning Codes, and other legal documents (such as statutes, ordinances, resolutions, contracts, and agreements). The purpose of this City Attorney Opinion is to establish a process for making and receiving such requests, to discuss the binding, precedential nature of a City Attorney Opinion, and to ensure that a database and Opinion Book are created so that any formal opinions are made fully accessible to the City Commission, City staff, and City boards.

There are two types of legal opinions that can be issued by the City Attorney's Office, (1) formal opinions, and (2) informal opinions.

Formal Opinions

As the chief legal officer of the City, appointed by the City Commission, the City Attorney has the recognized legal authority to issue formal opinions that provide authoritative interpretations of the Charter, Codes, and other legal documents, which have precedential value and are binding on City staff and City boards. *See, e.g.*, City Code, § 2-584; Zoning Code, § 2-702. Because a formal opinion is binding and may involve interpretation of the Charter or Codes, it is the opinion of this Office that a formal opinion may only be requested by an elected or appointed official, such as the Mayor, a Commissioner, the City Manager, or the City Clerk. A formal opinion may also be requested by a Director, but only with the approval of the City Manager (as the City Manager has administrative authority over Directors). In addition, as the chief legal officer of the City, the City Attorney has the inherent discretion to issue a formal opinion whenever an issue has arisen that requires the formal, legal interpretation of the Charter, Codes, or other legal documents.

A request for a formal opinion should be addressed in writing to the City Attorney's Office and should provide a description of the legal issue that the opinion should address (along with any facts that are relevant to the opinion). Any formal opinion issued by the City Attorney will be sequentially numbered and circulated to the City Commission, City Manager, and City Clerk (as well as Directors and other City officials in appropriate circumstances), and will be kept in a computer database, as well as an Opinion Book that will be available upon request.

Informal Opinions

The City Attorney's Office also continues to have the customary authority to issue informal opinions either verbally or in writing. Indeed, most opinions sought of the City Attorney's Office involve the day-to-day provision of legal counsel and advice. Likewise, the City Attorney's Office has the well recognized authority to review and approve, for form and legal sufficiency, items placed on the Commission Agenda, as well as other legal documents, and to provide binding legal instruction in doing so.

Prior Opinions

This Opinion in no way alters the binding nature or validity of prior opinions issued by the City Attorney's Office. These opinions remain in full force and effect unless rescinded by this Office.

CITY OF CORAL GABLES

OFFICE OF THE CITY ATTORNEY

**- CITY ATTORNEY OPINION -
Formal Opinion No. 001-CEL-2011**

TO: CITY COMMISSION

DATE: August 17, 2011

FROM:


CRAIG E. LEEN
CITY ATTORNEY

**SUBJECT: Formal and Informal
Opinions**

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cc: City Manager
City Clerk
Directors

Hernandez, Cristina

From: Leen, Craig
Sent: Monday, August 22, 2011 1:44 PM
To: Foeman, Walter
Cc: Alfonsin, Lourdes; Osle, Zilma; Hernandez, Cristina
Subject: FW: City Attorney Opinion Related to Issuance of Formal and Informal Legal Opinions
Attachments: Formal Opinion No. 001-CEL-2011.pdf.html

Walter,

Please include the following fields in TRIM (I have included what the field would be for the attached opinion in parentheses)

Title: which will always be City Attorney Opinion (City Attorney Opinion)

Recipient: to whom it is addressed (City Commission)

Date: will always be the date on the City Attorney Opinion (August 17, 2011)

Subject Matter: will always be listed under Subject (Formal and Informal Opinions)

Number: (will always be at the top) 001-CEL-2011

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: Osle, Zilma
Sent: Thursday, August 18, 2011 9:21 AM
To: Leen, Craig
Subject: FW: City Attorney Opinion Related to Issuance of Formal and Informal Legal Opinions

FYI

Zilma Osle
Legal Secretary
City Attorney's Office
City of Coral Gables
405 Biltmore Way, 2nd Floor
Coral Gables, Florida 33134
Phone: 305-460-5219
Fax: 305-460-5264
Email: osle@coralgables.com

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.

NOTICE: This e-mail is from the law office of the City of Coral Gables, and is intended solely for the use of the individual(s) to whom it is addressed. If you believe you received this e-mail in error, please notify the sender immediately, delete the e-mail from your computer and do not copy or disclose it to anyone else. If you properly received this e-mail as a client, co-counsel or retained expert of the office of the City Attorney, you should maintain its contents in confidence in order to preserve the attorney-client or work product privilege that may be available to protect confidentiality.

From: Foeman, Walter
Sent: Thursday, August 18, 2011 8:57 AM
To: Osle, Zilma
Subject: FW: City Attorney Opinion Related to Issuance of Formal and Informal Legal Opinions

As I had previously mentioned to Craig, we have the infrastructure for his request already set up in TRIM, our Enterprise Content Management Application, along with the appropriate accompanying retention structure. The only thing that I will need from your office is the desirous fields (i.e. title, date, subject matter, etc.). Once you tell us that, we can set it up.

From: Leen, Craig
Sent: Wednesday, August 17, 2011 10:23 PM
To: Osle, Zilma; Hernandez, Cristina
Cc: Foeman, Walter; Alfonsin, Lourdes
Subject: FW: City Attorney Opinion Related to Issuance of Formal and Informal Legal Opinions

Zilma,

Please contact Walter and create an Opinion Book that can be maintained in the Office of the City Clerk (with a duplicate book maintained in the Office of the City Attorney). The first opinion is attached.

Craig

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: Wednesday, August 17, 2011 10:22 PM
To: Commissioners
Cc: Salerno, Patrick; Foeman, Walter; Directors; Alfonsin, Lourdes
Subject: City Attorney Opinion Related to Issuance of Formal and Informal Legal Opinions

Mayor and Commissioners:

Attached is a City Attorney Opinion related to the issuance of formal and informal legal opinions. Please contact me if you have any questions.

Best regards,

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Osle, Zilma

From: Chow, Gee Ming
Sent: Thursday, August 18, 2011 7:23 PM
To: Information Technology Department
Cc: Leen, Craig; Osle, Zilma
Subject: RE: City Attorney Opinion Related to Issuance of Formal and Informal Legal Opinions

ITSD:

Please create a ticket and make it so.

Gee M. Chow
Chief Information Officer
Information Technology Department
City of Coral Gables
305-460-5531
gchow@coralgables.com

Under Florida Law, e-mail addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

From: Osle, Zilma
Sent: Thursday, August 18, 2011 9:58 AM
To: Leen, Craig
Cc: Chow, Gee Ming
Subject: RE: City Attorney Opinion Related to Issuance of Formal and Informal Legal Opinions
Importance: High

We created a physical binder/book for your opinions, as far as the link on the City Webpage I am copying Mr. Chow from IT to seek help. Thank you.

Zilma Osle
Legal Secretary
City Attorney's Office
City of Coral Gables
405 Biltmore Way, 2nd Floor
Coral Gables, Florida 33134
Phone: 305-460-5219
Fax: 305-460-5264
zosle@coralgables.com

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of the office of the City Attorney, you should maintain its contents in confidence in order to preserve the attorney-client or work product privilege that may be available to protect confidentiality.

From: Leen, Craig
Sent: Thursday, August 18, 2011 9:40 AM
To: Osle, Zilma
Subject: Re: City Attorney Opinion Related to Issuance of Formal and Informal Legal Opinions

I would still like a physical book created and would like a link on the City Attorney's Office webpage. Zilma, please create one in our office.

Sent from my iPhone

On Aug 18, 2011, at 9:20 AM, "Osle, Zilma" <zosle@coralgables.com> wrote:

FYI

Zilma Osle

Legal Secretary

City Attorney's Office

City of Coral Gables

405 Biltmore Way, 2nd Floor

Coral Gables, Florida 33134

Phone: 305-460-5219

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Sent: Wednesday, August 17, 2011 10:23 PM
To: Osle, Zilma; Hernandez, Cristina
Cc: Foeman, Walter; Alfonsin, Lourdes
Subject: FW: City Attorney Opinion Related to Issuance of Formal and Informal Legal Opinions

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