



To: Jane Tompkins; William Miner

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

A handwritten signature in black ink, appearing to be "CL", written over the name "Craig E. Leen".

RE: Legal Opinion Regarding City Has Discretion To Continue With Building Plan Review If Application Requests To Do So

Date: July 9, 2014

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It is my opinion that the City has the discretion, but not the duty, to continue with the building plan review if the applicant requests to do so (at the applicant's risk). The City cannot issue the permit, however, as this would be action that would harm the interests of the appealing party (who I have been informed is the neighbor and within 1,000 feet) in a manner contrary to the purpose of section 3-606, and would also advance the proceedings in a manner contrary to section 3-606 as well.

## Parramore, Carol

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**From:** Leen, Craig  
**Sent:** Wednesday, July 09, 2014 1:39 PM  
**To:** Osle, Zilma; Parramore, Carol  
**Cc:** Thornton, Bridgette; Figueroa, Yanneris  
**Subject:** FW: Appeal of BOA's decision re 1011 Lisbon

Please place in the opinion folder.

Craig E. Leen  
City Attorney

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**From:** Leen, Craig  
**Sent:** Wednesday, July 09, 2014 1:39 PM  
**To:** Tompkins, Jane; Miner, William  
**Cc:** Wu, Charles  
**Subject:** RE: Appeal of BOA's decision re 1011 Lisbon

It is my opinion that the City has the discretion, but not the duty, to continue with the building plan review if the applicant requests to do so (at the applicant's risk). The City cannot issue the permit, however, as this would be action that would harm the interests of the appealing party (who I have been informed is the neighbor and within 1,000 feet) in a manner contrary to the purpose of section 3-606, and would also advance the proceedings in a manner contrary to section 3-606 as well.

Craig E. Leen  
City Attorney

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**From:** Tompkins, Jane  
**Sent:** Wednesday, July 09, 2014 9:29 AM  
**To:** Leen, Craig; Miner, William  
**Cc:** Wu, Charles  
**Subject:** Appeal of BOA's decision re 1011 Lisbon

Good morning gentlemen,

As I think you know, a neighbor has filed an appeal of the BOA's approval of the design for the new house on Lisbon. Since the BOA approved the design, we would normally begin reviewing the construction drawings in anticipation of issuing the building permit. However, Section 3-606 of the Zoning Code says that "an appeal shall stay all proceedings in the matter appealed from until the final disposition of the appeal by the City Commission or other Board with jurisdiction". The developer has requested that we proceed with the building plan review, at his risk and with the understanding that a permit will not be issued unless and until the appeal is decided in his favor. Craig, do you think this Zoning Code provision prohibits us from reviewing the plans? If not, then I'd like to know Bill's thoughts on proceeding with the review. If you need more information on the particulars of this case, I'd be happy to discuss it with you.

Thank you,

Jane  
Jane K. Tompkins, AICP  
Development Services Director

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