



To: Cathy Swanson-Rivenbark

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 name "Craig E. Leen".

RE: Legal Opinion Regarding Hiring of Assistant City Manager

Date: March 4, 2015

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You have asked whether your potential appointment of an Assistant City Manager is subject to the personnel rules relating to selection of new employees (i.e. are you required to notice the position even if you have determined based on your experience whom you believe would be best for the position?). Pursuant to section 2-201(e)(1) and (8) of the City Code, authorizing the City Attorney to issue opinions and interpretations, it is my opinion that the City Manager has the authority under the Charter to directly make this appointment as part of the City Manager's Office, and that personnel rules do not limit the City Manager's authority in doing so. I have reviewed the City Charter, City Code, and Personnel Rules. As you may know, elected and appointed officials are not subject to the personnel rules. The authority of these positions is derived directly from the City Charter, as well as the Municipal and Zoning Codes, not from administrative rules. Moreover, Personnel Rule 2.5 expressly indicates that the personnel rules do not apply to elected and appointed officials. In selecting an Assistant City Manager, the City Manager is selecting someone who would directly exercise authority on her behalf as part of the City Manager's Office. The ability for the City Manager to have complete discretion in making this selection is crucial, as the City Manager must have full confidence in the person exercising this authority. If the City Manager has already determined based on experience whom she would like to serve in this position, she has the authority to appoint this individual without having to conduct any further process.

## Herbello, Stephanie

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**From:** Leen, Craig  
**Sent:** Wednesday, March 04, 2015 10:19 AM  
**To:** Herbello, Stephanie  
**Cc:** Chen, Brigette; Figueroa, Yaneris  
**Subject:** FW: Assistant City Manager - City Attorney Opinion

Please place in the opinion folder.

**Craig E. Leen, City Attorney**  
*Board Certified by the Florida Bar in  
City, County and Local Government Law*  
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**From:** Leen, Craig  
**Sent:** Wednesday, March 04, 2015 10:18 AM  
**To:** Swanson-Rivenbark, Cathy  
**Subject:** Assistant City Manager - City Attorney Opinion

Cathy,

You have asked whether your potential appointment of an Assistant City Manager is subject to the personnel rules relating to selection of new employees (i.e. are you required to notice the position even if you have determined based on your experience whom you believe would be best for the position?). Pursuant to section 2-201(e)(1) and (8) of the City Code, authorizing the City Attorney to issue opinions and interpretations, it is my opinion that the City Manager has the authority under the Charter to directly make this appointment as part of the City Manager's Office, and that personnel rules do not limit the City Manager's authority in doing so. I have reviewed the City Charter, City Code, and Personnel Rules. As you may know, elected and appointed officials are not subject to the personnel rules. The authority of these positions is derived directly from the City Charter, as well as the Municipal and Zoning Codes, not from administrative rules. Moreover, Personnel Rule 2.5 expressly indicates that the personnel rules do not apply to elected and appointed officials. In selecting an Assistant City Manager, the City Manager is selecting someone who would directly exercise authority on her behalf as part of the City Manager's Office. The ability for the City Manager to have complete discretion in making this selection is crucial, as the City Manager must have full confidence in the person exercising this authority. If the City Manager has already determined based on experience whom she would like to serve in this position, she has the authority to appoint this individual without having to conduct any further process.

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