



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

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

RE: Legal Opinion Regarding Trial Board

Date: May 2, 2017

During the 2016 Charter Review Process, one of the provisions recommended for removal from the Charter, by the Charter Review Committee, was that of the Trial Board. After considering the Committee's recommendation, the City Commission, through Resolution 2016-157, placed the removal of the Trial Board provision on the ballot. At the November 2016 election, the electors voted to retain the Trial Board provision in the City's Charter.

Given that the Charter will continue to include the provision, this opinion speaks to the Trial Board's applicability to employees and officials of the offices of the City Attorney and City Clerk, both of whom are appointed directly by the City Commission.

The provision provides that any officer or employee appointed by the City Manager or under his/her authorization may be removed, suspended, laid off, or reduced in grade by the City Manager (or his/her appointee) and that such an affected officer or employee may within five (5) days after such action, file with the City Manager a written request for written statement of the reasons thereof. Subsequently, the City Manager must provide a response within five (5) days. After receiving said statement, the officer or employee may request a hearing before the trial board. After reviewing the matter (which could include the holding of a hearing) the trial board may determine whether the officer or employee is entitled to compensation, allowance or adjustment.

While the Trial Board provision appears under the City Manager section of the Charter, it is both logical and just that the protections afforded to officers and employees who serve under the City Manager, would also be afforded to those who serve under the two other Charter officers of the City – the City Attorney and the City Clerk. It is also important to note that neither the City Attorney nor the City Clerk are afforded a section in the Charter (although both are afforded sections in the Code), therefore it stands to reasons that employees under their supervision would be protected at least as much as those under the City Manager. It is therefore the opinion of this

office that all officers and employees serving under the City Attorney or City Clerk are entitled to the protection of the Trial Board, with the City Attorney or the City Clerk fulfilling the same responsibilities in section 13 of the Charter as the City Manager would if the officer or employee at issue were under the City Manager's charge. The City Attorney's Office has consulted with the City Clerk, who is in agreement with this opinion.

This opinion is issued pursuant to Sections 2-201(e)(1) and (8) of the City Code.

From: [Leen, Craig](#)
To: [Paulk, Enga](#)
Cc: [Ramos, Miriam](#)
Subject: FW: Opinion regarding Trial Board
Date: Tuesday, May 02, 2017 5:48:56 PM
Attachments: [Opinion re trial board.pdf](#)
[image001.png](#)
[image002.png](#)

Please publish.

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



Celebrating 90 years of a dream realized.

From: Leen, Craig
Sent: Tuesday, May 02, 2017 5:51 PM
To: Ramos, Miriam <mramos@coralgables.com>
Subject: Opinion regarding Trial Board

OPINION REGARDING TRIAL BOARD

During the 2016 Charter Review Process, one of the provisions recommended for removal from the Charter, by the Charter Review Committee, was that of the Trial Board. After considering the Committee's recommendation, the City Commission, through Resolution 2016-157, placed the removal of the Trial Board provision on the ballot. At the November 2016 election, the electors voted to retain the Trial Board provision in the City's Charter.

Given that the Charter will continue to include the provision, this opinion speaks to the Trial Board's applicability to employees and officials of the offices of the City Attorney and City Clerk, both of whom are appointed directly by the City Commission.

The provision provides that any officer or employee appointed by the City Manager or under his/her authorization may be removed, suspended, laid off, or reduced in grade by the City Manager (or his/her appointee) and that such an affected officer or employee may within five (5) days after such action, file with the City Manager a written request for written statement of the reasons thereof. Subsequently, the City Manager must provide a response within five (5) days. After receiving said statement, the officer or employee may request a hearing before the trial board. After reviewing the matter (which could include the holding of a hearing) the trial board may determine whether the officer or employee is entitled to compensation, allowance or adjustment.

While the Trial Board provision appears under the City Manager section of the Charter, it is both logical and just that the protections afforded to officers and employees who serve under the City Manager, would also be afforded to those who serve under the two other Charter officers of the City – the City Attorney and the City Clerk. It is also important to note that neither the City Attorney nor the City Clerk are afforded a section in the Charter (although both are afforded sections in the Code), therefore it stands to reasons that employees under their supervision would be protected at least as much as those under the City Manager. It is therefore the opinion of this office that all officers and employees serving under the City Attorney or City Clerk are entitled to the protection of the Trial Board, with the City Attorney or the City Clerk fulfilling the same responsibilities in section 13 of the Charter as the City Manager would if the officer or employee at issue were under the City Manager's charge. The City Attorney's Office has consulted with the City Clerk, who is in agreement with this opinion.

This opinion is issued pursuant to Sections 2-201(e)(1) and (8) of the City Code.

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



CORAL GABLES
THE CITY BEAUTIFUL

Celebrating 90 years of a dream realized.