



To: Charles C. Kline

From: Miriam Soler Ramos, City Attorney for the City of Coral Gables

Handwritten initials in blue ink, appearing to be "MSR".

RE: Legal Opinion Regarding Entrance Features in the City's Right-Of-Way

Date: December 17, 2018

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For over 16 years, Cocoplum II (also known as the "Islands of Cocoplum") has had an entrance feature identifying to the public its neighborhood. The entrance feature located on public right-of-way was first established pursuant to City of Coral Gables Resolution No. 30389 A in December of 2002, at the request of what was then known as the Cocoplum Homeowners Association, Inc. That resolution approved four informational signs in the City's right-of-way.

In 2012, the Association now known as the Islands of Cocoplum Homeowners Association (Homeowners Association), requested an encroachment in the right-of way to replace the previous wood signs with "a more attractive stone feature that would be more up to the distinctive 'Coral Gables' architectural standard."<sup>1</sup> (Letter to Public Works Department dated October 16, 2012 attached as Attachment I). As a result of that request, the City approved Resolution No. 2013-06 and authorize replacing two wooden signs with two stone signs. (Attachment II).

The adjacent neighborhood, known as Cocoplum I, argues (for the first time), the City's authority taken in 2002 to approve the Homeowners Association's entrance feature, and the City's approval of a modified entrance feature taken five years ago. It is the opinion of this office that Cocoplum I's position is without merit.

Cocoplum I's challenge to the City's action to approve the entrance feature is based on a 1955 Supreme Court case known as *Edwards v. Town of Lantana*, 77 So2d 245 Fla.1955) (Counsel for Cocoplum I misced this as a 4th District Court of Appeal case.). In that case, the city entered into an agreement with a developer who was in the business selling lots for homesites in a remote part of town. The town entered into an agreement permitting the developer to install "ornamental markers" in the city's right-of way as part of an overall agreement with developer

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<sup>1</sup> The City approves encroachments into the right-of-way through notice and public hearing. Section 62-3, City of Coral Gables Code.

who agreed to put in the necessary infrastructure that the town did not want to go to the expense to install. The town, after the developer had installed the ornamental markers, had a change of heart and required the developer to either remove the markers or the town would destroy them. The Court in rejecting the developer's argument of estoppel, held that the town's agreement was ultra vires for allowing in the public right-of-way ornamental markers found by the Court to be for a purely private purpose. *Accord Smith v. Bus Stops of Greater Miami, Inc* 89 So.2d (Fla. 1956). (City lacked authority to enter into contract for advertising markers at bus stops.)

The law as announced in the *Edwards* and *Smith*, was distinguished in *City of Miami v. Bus Benches Co.*, 174 So 2d. 1965 (Fla. 3rd DCA 1965) and supports the City's authority to permit the installation of the entrance features here. In that case, the City of Miami, granted to a bus bench company a five-year contract to install bus benches in the right-of-way. The City during the term of the contract sought to impair that contract by requiring the removal of bus benches from rights-of-way in residential areas. The City, relying upon language in *Smith*, argued that its contact was void *ab initio*. The Third District Court of Appeal distinguished and limited the scope of *Smith* as follows:

First of all, it should be pointed out that the Court apparently did not specifically consider Section 3(hh) of the City Charter.<sup>2</sup> Secondly, the point in case makes 'that in the absence of express legislative authority, a city has no power to grant a private individual a privilege to use any portion of its streets or sidewalks for a *special private purpose*,' is correct as far as it goes, but, in the instant case, the permits are for benches which, in addition to the advertising thereon, **provide a public service for the people of the municipality, to-wit: benches for them to sit on while awaiting busses.** (Emphasis supplied)

*City of Miami v. Bus Benches Co.*, 174 So. 2d 49, 52 (Fla. 3d DCA 1965).

In this case, the entrance feature approved provides a dual public purpose. First, as a directional sign to assist travelers in locating the community and second, to promote neighborhood identity and civic pride. This is in stark contrast to the commercial private purpose of ornamental markers for a company selling homesites in *Edwards*, advertising markers at bus stops disapproved in *Smith*, or even bus bench signs found to provide a public service in *Bus Benches Co.*

Of course, countless entrance features within rights-of-way can be found throughout South Florida. Indeed, one need only look to the Miami-Dade County Code to find an express authorization for such:

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<sup>2</sup> While it is clear that the Court did not rely on the City's charter, the language of 3(hh) (subsequently revised and reattached in other parts of the City of Miami Charter) has been included here as Attachment III. In summary, the Section referenced, provides the City authority over its own roads. The Municipal Home Rule Powers Act, Chapter 166, Florida Statutes and the broad powers granted to municipalities was expressly adopted by reference in Section 34. Additional Powers, City of Coral Gables Charter, includes such power.

Sec. 33-112. - Permitted features described.

Notwithstanding any other provision of this article, entrance features in compliance with each of the standards enumerated below shall be permitted:

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**(b) Entrance features may be placed within public rights-of-way provided:**

- (1) Prior approval is granted by the Miami-Dade County Public Works Department; and
- (2) A bond is submitted to the Public Works Department in an amount to cover the removal of said features if deemed necessary at a later date by the Public Works Department. The bond shall have an initial ten-year life and shall be renewed for five-year periods thereafter; and
- (3) An executed covenant, stating that all structures shall be maintained in good condition and repair and that all landscaping shall likewise be so maintained, shall be delivered to Miami-Dade County Public Works Department for review and, upon approval, shall be duly recorded prior to the issuance of any permits. (emphasis supplied)

Even the State of Florida recognizes neighborhood entrance features in its “Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways,” known as the “Greenbook.” (Except included as Attachment IV.) The Greenbook under Section D. 3. “Neighborhood Entry Control,” “Gateway Treatment or Entrance Features” describes the purpose for entrance features: “Treatment to a street that includes a sign, banner, landscaping and roadway narrowing or other structure that help to communicate a sense of neighborhood identity.”

Cocoplum I’s objection to the name presents a non-justiciable political question. Under the separation of powers doctrine courts are not permitted to dictate matters exclusive to the legislative branch such as the choice of name used for an entrance feature. *See e.g* Kuntz v. School Board of Palm Beach County 237 So.2d 1026 (Fla 4th DCA 1026, 1029)(“strict separation of powers supports the foundation and logic of the political-question doctrine, in that Florida’s organic law does not permit a ‘dispersal of decisional responsibility’ which would allow the courts to dictate educational policy choices and their implementation to the other two branches of government, absent specific authorization by law.”)

The City had the authority sixteen years ago to approve the entrance feature as well as the authority five years ago to approve its modification and continues to have that authority today. The City’s action was lawful as it was based on a dual public purpose: first, as a directional sign

to assist to assist travelers in locating the community and second, to promote neighborhood identity and civic pride.

In consultation with special counsel, this opinion is issued pursuant to Sections 2-252(e)(1) and (8) of the City Code authorizing the City Attorney's Office to issue opinions and interpretations on behalf of the City.

December 2018

**CITY OF CORAL GABLES**  
CITY ATTORNEY'S OFFICE

OPINION REGARDING ENTRANCE FEATURES IN THE CITY'S RIGHT-OF-WAY

For over 16 years, Cocoplum II (also known as the “Islands of Cocoplum”) has had an entrance feature identifying to the public its neighborhood. The entrance feature located on public right-of-way was first established pursuant to City of Coral Gables Resolution No. 30389 A in December of 2002, at the request of what was then known as the Cocoplum Homeowners Association, Inc. That resolution approved four informational signs in the City’s right-of-way.

In 2012, the Association now known as the Islands of Cocoplum Homeowners Association (Homeowners Association), requested an encroachment in the right-of way to replace the previous wood signs with “a more attractive stone feature that would be more up to the distinctive ‘Coral Gables’ architectural standard.”<sup>1</sup> (Letter to Public Works Department dated October 16, 2012 attached as Attachment J). As a result of that request, the City approved Resolution No. 2013-06 and authorize replacing two wooden signs with two stone signs. (Attachment II).

The adjacent neighborhood, known as Cocoplum I, argues (for the first time), the City’s authority taken in 2002 to approve the Homeowners Association’s entrance feature, and the City’s approval of a modified entrance feature taken five years ago. It is the opinion of this office that Cocoplum I’s position is without merit.

Cocoplum I’s challenge to the City’s action to approve the entrance feature is based on a 1955 Supreme Court case known as *Edwards v. Town of Lantana*, 77 So2d 245 Fla.1955) (Counsel for Cocoplum I miscited this as a 4<sup>th</sup> District Court of Appeal case.). In that case, the city entered into an agreement with a developer who was in the business selling lots for homesites in a remote part of town. The town entered into an agreement permitting the developer to install “ornamental markers” in the city’s right-of way as part of an overall agreement with developer who agreed to put in the necessary infrastructure that the town did not want to go to the expense to install. The town, after the developer had installed the ornamental markers, had a change of heart and required the developer to either remove the markers or the town would destroy them. The Court in rejecting the developer’s argument of estoppel, held that the town’s agreement was ultra vires for allowing in the public right-of-way ornamental markers found by the Court to be for a purely private purpose. *Accord Smith v. Bus Stops of Greater Miami, Inc* 89 So.2d (Fla. 1956). (City lacked authority to enter into contract for advertising markers at bus stops.)

The law as announced in the *Edwards* and *Smith*, was distinguished in *City of Miami v. Bus Benches Co.*, 174 So 2d. 1965 (Fla. 3<sup>rd</sup> DCA 1965) and supports the City’s authority to permit the installation of the entrance features here. In that case, the City of Miami, granted to a bus bench company a five-year contract to install bus benches in the right-of-way. The City during the term of the contract sought to impair that contract by requiring the removal of bus benches from rights-of-way in residential areas. The City, relying upon language in *Smith*, argued that its contact was

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Sec. 33-112. - Permitted features described.

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**(b) Entrance features may be placed within public rights-of-way provided:**

- (1) Prior approval is granted by the Miami-Dade County Public Works Department; and
- (2) A bond is submitted to the Public Works Department in an amount to cover the removal of said features if deemed necessary at a later date by the Public Works Department. The bond shall have an initial ten-year life and shall be renewed for five-year periods thereafter; and
- (3) An executed covenant, stating that all structures shall be maintained in good condition and repair and that all landscaping shall likewise be so maintained, shall be delivered to Miami-Dade County Public Works Department for review and, upon

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<sup>2</sup> While it is clear that the Court did not rely on the City’s charter, the language of 3 (hh) (subsequently revised and restated in other parts of the City of Miami Charter) has been included here as Attachment III. In summary, the Section referenced, provides the City authority over its own roads. The Municipal Home Rule Powers Act, Chapter 166, Florida Statutes and the broad powers granted to municipalities was expressly adopted by reference in Section 3-4. Additional Powers, City of Coral Gables Charter, includes such power.

approval, shall be duly recorded prior to the issuance of any permits. (emphasis supplied)

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Cocoplum I’s objection to the name presents a non-justiciable political question. Under the separation of powers doctrine courts are not permitted to dictate matters exclusive to the legislative branch such as the choice of name used for an entrance feature. *See e.g.* Kuntz v. School Board of Palm Beach County 237 So.2d 1026 (Fla 4<sup>th</sup> DCA 1026, 1029)(“strict separation of powers supports the foundation and logic of the political-question doctrine, in that Florida’s organic law does not permit a ‘dispersal of decisional responsibility’ which would allow the courts to dictate educational policy choices and their implementation to the other two branches of government, absent specific authorization by law.”)

The City had the authority sixteen years ago to approve the entrance feature as well as the authority five years ago to approve its modification and continues to have that authority today. The City’s action was lawful as it was based on a dual public purpose: first, as a directional sign to assist to assist travelers in locating the community and second, to promote neighborhood identity and civic pride.

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December 2018



10/16/2012

Public Works Department  
City of Coral Gables  
2800 SW 72 Avenue  
Miami, Florida. 33155

Re: Request for permission for encroachment

The "Islands of Cocoplum Homeowners Association" is requesting permission to encroach on the Right of Way. The association currently has permission to encroach, and has Wood signs located at the desired location. It is the intent to replace these wood signs with a more attractive stone feature that would be more up to the distinctive "Coral Gables" architectural standard.

The Stone feature located on the center median, and side swales at the intersection of Cocoplum Road and Los Pinos . This would be adjacent to the Clifford Suchman residence located at 185 Cocoplum Rd. (Legal Description: CORAL GABLES BISC BAY SEC 1 PL B PB 25-50 LOTS 64-68 INC BLK 4 LOT SIZE 250.00 X 150 OR 13931-1166 1288 1 OR 13931-1166 1288 00)

The structure in the center median would be 11 foot 4 inches wide, 6 feet in height . The structures on the swales would be 4 foot, 3 inches wide, by 8 feet in height

The other would replace the entrance feature on Prado Blvd. This would be adjacent to the Edward Peron Residence located at 6995 Prado Blvd (Legal Description: COCOPULUM SEC 2 PLAT D PB 128-99 LOT 1 BLK 18 LOT SIZE 15361 SQ FT M/L OR 14231-2229 0889 1 OR 14231-2220 0889 00. This structure would be 9 feet wide and 5 feet in height.

These features would be will be installed as directed by Coral gables Building and Zoning requirements. The Association will maintain the new structure accordingly at all times, and will never impede the triangle of vision or be a detriment in anyway. The Architectural Board has approved ( August 2010) and was very happy to see the design was going to compliment the Guardhouse and other Architectural design throughout Coral Gables.

If more information is needed please contact me.

For the Board of Director

  
Carlos Linchenat, CAM  
Community Manager



**CITY OF CORAL GABLES, FLORIDA**

**RESOLUTION NO. 2013-06**

RESOLUTION AUTHORIZING ENCROACHMENTS INTO THE PUBLIC RIGHT-OF-WAY WITHIN THE COCOPLUM SUBDIVISION FOR THE PURPOSE OF REPLACING EXISTING WOOD SIGNS WITH STONE SIGNS AT TWO LOCATIONS, SUBJECT TO THE REQUIREMENTS OF THE PUBLIC WORKS DEPARTMENT.

**WHEREAS**, The Islands of Cocoplum Homeowners Association has requested permission to replace the existing wood signs at the center median and side swales at the intersection of Cocoplum Road and Los Pinos Boulevard and at the Prado Boulevard entrance; and

**WHEREAS**, the new stone signs will be constructed in the same location as the existing wood signs within the public right-of-way; and

**WHEREAS**, the proposed signs have been reviewed and approved by the City's Board of Architects;

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF CORAL GABLES:**

**SECTION 1.** That the foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon adoption hereof.

**SECTION 2.** The request to encroach into the public right-of-way at the intersection of Cocoplum Road and Los Pinos Boulevard and at the Prado Boulevard entrance with stone signs at the Cocoplum Subdivision shall be and is hereby approved, subject to the following requirements of the Public Works Department:

- a. The City of Coral Gables reserves the right to remove, add, maintain, or have the Islands of Cocoplum Homeowners Association remove any of the improvements within the right-of-way, at The Islands of Cocoplum Homeowners Association's expense;
- b. The Islands of Cocoplum Homeowners Association shall maintain the proposed encroachments in good condition at all times at the Islands of Cocoplum Homeowners Association's expense;
- c. The proposed encroachments shall be constructed in accordance with the Florida Building Code and all other pertinent Codes;
- d. In the event the Public Works Department must issue a permit for a utility cut in the future within the area in which the encroachments are approved, the Islands of Cocoplum Homeowners Association shall replace the proposed encroachments so cut by the utility at the Islands of Cocoplum Homeowners Association's expense;


- e. The proposed encroachment be maintained in accordance with City Zoning Code, Section 5 1406, requiring that all visual obstructions be kept within a maximum height of thirty inches (30") within the triangle of visibility;
- e. The Islands of Cocoplum Homeowners Association shall meet with the City Attorney for the purpose of providing all information necessary for preparation of a maintenance agreement to be executed by the Islands of Cocoplum Homeowners Association, which states, in addition to the aforementioned requirements, that the Islands of Cocoplum Homeowners Association will provide Public Liability Insurance coverage for the encroachment in the minimum limits required by the City, and naming the City as an additional insured under the policy;
- f. That copies of the maintenance agreement, when fully executed and filed, together with certification of required insurance, shall be presented by the Islands of Cocoplum Homeowners Association to the Public Works Department and permits thereafter shall be obtained from that Department;

**SECTION 3.** This Resolution shall become effective upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS TWENTY-SECOND DAY OF JANUARY, A.D., 2013.

(Moved: Cabrera / Seconded: Quesada)  
(Majority: (4-0) Vote)  
(Absent: Kerdyk)  
(Agenda Item: C-6)

APPROVED:

  
JIM MASON  
MAYOR

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

  
CRAIG E. LEEN  
CITY ATTORNEY

ATTEST:

  
WALTER J. FOEMAN  
CITY CLERK

[For the latest legal description of the city boundaries, the user is referred to the office of the director of public works.]

**Editor's note**—The territorial limits of the City of Miami were fixed pursuant to Laws of Fla. (1931), ch. 15687. Further special acts extending, enlarging, or otherwise changing the corporate limits include Laws of Fla. (1931), ch. 15821; Laws of Fla. (1937), ch. 18686; Laws of Fla. (1941), chs. 21393, 21396; Laws of Fla. (1945), chs. 23405, 23409; Laws of Fla. (1949), ch. 26021; Laws of Fla., ch. 57-1583.

The board of county commissioners of Dade County further extended the boundaries of the city (Primrose Park) by Dade County Ordinance No. 63-6, adopted March 5, 1963.

**County charter reference**—Method of changing city boundaries, § 5.04.

**State law reference**—Municipalities within Dade County to adopt annexation or contraction ordinances pursuant to provisions of county home rule charter, Fla. Stats. § 171.071.

### Sec. 3. Powers.

The City of Miami shall have power:

- (a) *Taxes and assessments*: To raise annually by taxes and assessments in said city, such sums of money as the commission hereinafter provided for shall deem necessary for the purpose of said city, and in such manner as shall be hereinafter provided for, and in accordance with the constitution and laws of the State of Florida and the United States; provided, however, that it shall impose no tax on the bonds of the city, or other evidence of city indebtedness.
- (b) *Streets, parks, bridges, sewers, grade crossings, speed of vehicles, services and rates of motor vehicle carriers*:\* To pave, grade, curb, repave, macadamize, remacadamize, lay out, open, widen and otherwise improve streets, alleys, avenues, boulevards, lanes, sidewalks, parks, promenades and other public highways or any part thereof, and to

hold liens therefor as hereinafter provided; to construct and maintain bridges, viaducts, subways, tunnels, sewers and drains, and regulate the use of all such highways, parks, public grounds and works; to prevent the obstruction of such sidewalks, streets and highways; abolish and prevent grade crossings over the same by railroads; regulate the operation and speed of all cars and vehicles using the same as well as the operation and speed of all engines, cars and trains of railroads within the city; to regulate the service to be rendered and rates to be charged by busses, motor cars, cabs and other vehicles for the carrying of passengers and by vehicles for the transfer of baggage.

- (c) *Special or local assessments*: To impose special or local assessments for local improvements as hereinafter provided and to enforce payment thereof.
- (d) *Contracting debts and borrowing money*: Subject to the provisions of the Constitution of Florida and of this Charter, to contract debts, borrow money and make and issue evidences of indebtedness.
- (e) *Expenditures*: To expend the money of the city for all lawful purposes.
- (f) *Acquiring and disposing of property*: To acquire by purchase, gift, devise, condemnation or otherwise, property real or personal, or any estate or interest therein, within or without the city and for any of the purposes of the city, and to improve, sell, lease, mortgage, pledge or otherwise dispose of the same or any part thereof.
- (g) *Public improvements*: To make and maintain, within and without the city, public improvements of all kinds, including municipal and other public buildings, armories, markets and all buildings and structures necessary or appropriate for the use of the city and to acquire by condemnation or other-

\*Note—For similar, subsequently enacted provisions, the user's attention is directed to § 3(6) of this Charter which provides for the vacating, closing and discontinuing of streets, alleys, etc., in addition to the powers here given.

wise all lands, riparian and other rights and easements necessary for such improvements; and to rent or lease from any person, firm, corporation, or political subdivision, any land or building within or without the city or any space within any such building for any municipal purpose.

(h) *Public service*: To furnish any and all local public service.

(i) *Public utilities*: To purchase, hire, construct, own, maintain, operate or lease local public utilities, including street railways, electric light, telephone and telegraph systems, and works for supplying the city and its inhabitants with water, ice, gas for illuminating and heating purposes, and electric energy for illuminating, heating or power purposes.

(j) *Water supply*: To acquire in any lawful manner in any county of the state, or without the state, such water, lands and lands under water as the city may deem necessary for the purpose of providing an adequate water supply for said city and of piping or conducting the same; to lay all necessary mains; to erect and maintain all necessary dams, pumping stations and other works in connection therewith; to make reasonable rules and regulations for promoting the purity of its said water supply and for protecting the same from pollution; and for this purpose to exercise full police powers and sanitary patrol over all lands comprised within the limits of the watershed tributary to any such supply wherever such lands may be located in this state; to impose and enforce adequate penalties for the violation of any such rules and regulations; and to prevent by injunction any pollution or threatened pollution of such water supply and any and all acts likely to impair the purity thereof; and for the purpose of acquiring lands or material for any such use to exercise within the

state all powers of eminent domain. For any of the purposes aforesaid said city may acquire by condemnation, purchase or otherwise, any estate or interest in such lands or any of them, or any right or easement therein, or may acquire such lands or any of them in fee, reserving to the owner or owners thereof such rights of easements therein as may be prescribed in the ordinance providing for such condemnation or purchase. The said city may sell or supply to persons, firms, industries or municipal corporations residing or located outside of the city limits, any surplus of water it may have over and above the amount required to supply its own inhabitants.

(k) *Rates of public utilities*: To establish, impose and enforce water rates and rates and charges for gas, electricity and all other public utilities or other service or conveniences operated, rendered or furnished by the city or by any other person, persons, firm or corporation.

(l) *Telephone and telegraph wires*: To require the placing of all electric wires and also all telephone and telegraph wires in conduits, underground, and prescribe rules and regulations for the construction and use of said conduits and to enforce compliance therewith, and in case of failure or refusal of the public utilities companies to place such wires underground and comply with the rules and regulations thereof, to construct such conduits and place the wires underground and maintain a lien against the franchise and property of such companies.

(m) *Harbor and shipping facilities*: To establish, construct, maintain and operate, both within and without the city, public landings, wharves, docks and warehouses; to dredge or deepen the harbor or river, or any branch or portion thereof, to install turning ba-

sins and build jetties, and otherwise improve the harbor and shipping facilities of the city, within and without the city and within and without harbor lines where such improvements outside of harbor lines are approved by the United States Government or its proper agencies; to acquire by condemnation or otherwise all lands, riparian and other rights and easements necessary for the purposes aforesaid; to lay and collect reasonable duties or wharfage fees on vessels coming through or using said landings, wharves, docks and to collect reasonable fees for storage in such warehouses; to lease or grant the use of any one or more of such public landings, wharves, docks or warehouses, or part thereof; to regulate the manner of using other wharves, docks and warehouses within the city; to prescribe and enforce reasonable rules and regulations for the protection and use of its said property; to advance to the Government of the United States or to the Secretary of War, with or without interest, funds to be expended in the prosecution of any work of harbor improvement to be made by the government in or adjacent to or near the city or directly affecting the city within Miami Harbor and the approaches thereto, if such work has been duly adopted and authorized by laws of the United States, and to issue bonds or notes to obtain funds for such advances in the manner that is or may be provided by this Charter or other law for the issuance of bonds and notes of the city; and to impose and enforce adequate penalties for the violation of such rules and regulations.

(n) *Franchises*: Subject to the provisions of the Constitution of Florida and of this Charter, both inclusive, to grant franchises for public utilities.

(o) *Sewage, offal, ashes, garbage, etc.*: To collect and dispose of sewage, offal, ashes, garbage, carcasses of dead ani-

mals and other refuse, and to acquire or construct and to operate incinerators and other plants for the disposal or reduction of such matter or the utilization thereof or any part thereof, and to acquire by purchase, condemnation or otherwise any estate or interest or easement in any water, land and land under water within the city or within any county in the state, as may be deemed necessary for such disposal, reduction, utilization, construction or operation.

(p) *Abatement of nuisances, etc.*: To compel or cause the abatement and removal of all nuisances within the city or upon property owned by the city beyond its limits at the expense of the person or persons causing the same, or of the owner or occupant of the ground or premises whereon the same may be, and in the event the city incurs any cost or expense for such abatement or removal, the same shall constitute and remain a lien against the real property involved until paid with interest to accrue at the rate of six (6) percent annually; to require all lands, lots or other premises within the city to be kept clean, sanitary and free from dilapidated, deteriorated, dangerous, or unsanitary buildings or structures, and weeds, undergrowth, rubbish, debris, trash and unsightly and unsanitary matter; and if the owner or owners, or persons interested in such property do not comply with any such requirement, such work shall be caused to be accomplished and the cost thereof shall be caused to become a lien against the real property involved in the manner provided in later sections of this Charter, the Code, or applicable ordinances; to regulate or prevent slaughterhouses or other noisome or offensive business within said city. To provide for inspecting and regulating the sanitary condition of all dairies, butcher pens and slaughterhouses within and

without the city limits where the products of the same are sold within the city limits and to provide penalties for the violation of such regulations, to regulate or prohibit the keeping of animals, poultry or other fowl therein, or the exercise of any dangerous or unwholesome business, trade or employment therein; to regulate the transportation of all articles through the streets of the city; to compel the abatement of smoke and dust, and prevent unnecessary noise therein; to regulate the location of stables and the manner in which they shall be kept and constructed and generally to define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the city.

- (g) *Weights and measures*: To inspect, test, measure and weigh any commodity or article of consumption or use within the city and to fix a standard for any such commodity or article and to establish, regulate, license and inspect weights, meters, measures and scales.
- (r) *Fire prevention; dangerous buildings; fire limits*: To extinguish and prevent fires and to compel citizens to render assistance to the fire department in case of need, and to establish, regulate and control a fire department or division; to regulate the size, materials and construction of buildings, fences and other structures hereafter erected in such manner as the public safety and convenience may require; to remove, or require to be removed, any building or structure or addition thereto which by reason of dilapidation, defect of structure, or other causes, may have become dangerous to life or property, or which may be erected, contrary to law; to establish and designate from time to time fire limits, within which limits wooden buildings shall not be constructed, removed, added to or enlarged, and
- to direct that any or all future buildings within such limits shall be constructed of stone, natural or artificial, concrete, brick, iron, or other fireproof material; provided, however, that by a vote of four-fifths (4/5) of all the members of the commission permission may be granted for storage sheds constructed on pile piers or wharves on the waterfront, the sides and roofs of which shall be covered with corrugated iron or other fireproof material.
- (s) *Public assistance*: To provide for the care, support and maintenance of orphan, dependent, delinquent or defective children, and of sick, aged, insane or indigent persons.
- (t) *Libraries*: To organize, support and administer public libraries.
- (u) *Detentive or penal institutions*: To provide and maintain, either within or without the city, charitable, recreative, curative, corrective, detentive or penal institutions.
- (v) *Paupers and undesirables*: To prevent persons having no visible means of support, paupers, and persons who may be dangerous to the peace or safety of the city from coming to said city from without the same; and for this purpose to require any railroad company, the master of any ship or vessel or the owners of any conveyance, bringing such person to the city, to take such person back to the place whence he was brought, or enter into bond with satisfactory security that such person shall not become a charge upon said city within one (1) year from the date of his arrival; and also to expel therefrom any such person.
- (w) *Health*: To provide for the preservation of the general health of the inhabitants of said city, make regulations to secure the same, inspect all foods and food-stuffs and prevent the introduction and sale in said city of any article or thing

intended for human consumption, which is adulterated, impure or otherwise dangerous to health, and to condemn, seize and destroy or otherwise dispose of any such article or thing without liability to the owner thereof; to prevent the introduction or spread of contagious or infectious diseases, and prevent and suppress diseases generally; to provide and regulate hospitals within or without the city limits, and to enforce the removal of persons afflicted with contagious or infectious diseases to hospitals provided for them; to provide for the organization of a department or bureau of health, to have the powers of a board of health, for said city, with the authority necessary for the prompt and efficient performance of its duties, with power to invest any or all the officials or employees of such department of health with such powers as the police officers of the city have; to establish and maintain a quarantine ground within or without the city limits, and such quarantine regulations against infectious and contagious diseases as the city may see fit, subject to the laws of the state and of the United States; to provide and keep records of vital statistics and compel the return of all births, deaths and other information necessary thereto.

(x) *Burial, etc., of dead:* To acquire by purchase, gift, devise, condemnation or otherwise, lands, either within or without the city, to be used, kept and improved as a place for the interment of the dead, and to make and enforce all necessary rules and regulations for the protection and use thereof; and generally to regulate the burial and disposition of the dead.

(y) *Police power and division of police:* To exercise full police powers and establish and maintain a department or division of police.

(z) *Promotion of general welfare, etc.:* To do all things whatsoever necessary or expedient for promoting or maintaining the general welfare, comfort, education, morals, peace, government, health, trade, commerce or industries of the city or its inhabitants.

(aa) *Enforcement by ordinances, rules and regulations; penalties, limitation on penalties:\** To make and enforce all ordinances, rules and regulations necessary or expedient for the purpose of carrying into effect the powers conferred by this Charter or by any general law, and to provide and impose suitable penalties for the violation of such ordinances, rules and regulations, or any of them, by fine not exceeding five hundred dollars (\$500.00) or imprisonment at hard labor on the streets or other works of the city for a term not exceeding sixty (60) days, or both.

(bb) *Licenses and privilege taxes:†* To license and tax privileges, businesses, occupations and professions carried on and engaged in within the city limits, and the amount of such licenses and the amount of such license taxes shall not be dependent upon a general state revenue law.

(cc) *Municipal trade commission:* To create a municipal trade commission consisting of one (1) or more members similar in purpose, plan and authority to the Federal Trade Commission.

(dd) *Municipal board of conciliation:* To create a municipal board of conciliation with authority to investigate and report on disputes between employers and their employees, such reports to be for the information of the public only and not binding on the parties.

\*Note—The user's attention is directed to Laws of Fla., ch. 67-853, included in pt. 1 of this volume as art. II of subpt. C.

†Note—For limitation on rate of occupational license tax, the user is referred to Fla. Stats., § 250.043(1)(b).

- (ee) *Aircraft*.\* To license and regulate air vessels operated over the city and stipulate the height at which and the manner in which same may be operated above the area included in the city limits, and to license and register the pilots thereof.
- (ff) *Intoxicating liquor*: To prohibit the sale, transportation or possession of intoxicating liquors, wines and beers within the limits of the city.
- (gg) *Bird sanctuary*: To declare that all territory embraced within the corporate limits of said city shall be a bird sanctuary and to adopt all ordinances necessary to carry this power into effect.
- (hh) *Street sales; hawkers and peddlers; beggars; carriages, drays, jitneys and other vehicles; traffic; vehicles for hire*: To license, control, tax and regulate traffic and sales upon the streets, sidewalks and public places within the city and the use of space in such places and to regulate, suppress and prohibit hawkers and peddlers and beggars upon such streets, sidewalks and public places; and to license and cause to be registered and control, tax, regulate, or to prohibit in designated streets, or parts of streets, carriages, omnibuses, motorbuses, cars, wagons, drays, jitney busses and other vehicles; and to license, tax, and cause to be registered and control the drivers thereof and to fix the rate to be charged for the carriage of persons and property within the city and to the public works beyond the limits of said city; and to authorize the city manager, or the chief of police to make and promulgate regulations for traffic on the streets or parts of the streets, during such hours as may be necessary or convenient, and to provide for parking spaces on the streets, and to
- at any time discontinue the right to the use of such parking spaces and to regulate or vacate or discontinue the use of the same; and to require all vehicles for the carriage of persons for hire to execute a bond to be conditioned as required by ordinance for the protection of passengers and of the public and to make such bonds inure to the benefit of persons or property which may be injured or damaged by the operation of such vehicles for hire; and to require such bond with such surety to be furnished by all vehicles for hire operating upon the streets of the City of Miami whether such operation be wholly within the limits of the City of Miami or between the City of Miami and other cities and towns or places outside of the City of Miami.
- (ii) *Reserved.*
- (jj) *Outdoor exhibitions, games and contests*: To use parks and playgrounds which may hereafter be acquired by the City of Miami, in which to give outdoor exhibitions, games and contests, with power and authority to charge and collect a reasonable admission fee for each person entering such park or playground during the time when the same shall be used or employed for such purpose.
- (kk) *Railways*: For the development and extension of the port and other shipping and transportation facilities of the city, to construct, purchase, lease or otherwise acquire, and to equip, own and maintain a single- or multiple-track line or lines of railway, and also yards, terminals, stations, warehouses, team and other tracks, switches, turnouts and all buildings and appurtenances deemed appropriate in connection therewith for the receipt, transportation, housing and delivery of passengers, freight, mail and express from, into and within the city and the zone lying outside of the city and not

\*Note—For limitation on municipal license or registration fees on aircraft, the user's attention is directed to Fla. Stats., § 330.17.



### D.3 Neighborhood Entry Control

Neighborhood entry control treatments include partial street closures and gateway type tools. They are used to reduce speeds and volume at neighborhood access points and may be used in conjunction with neighborhood beautification or enhancement projects and residential area identification.

**Table 15 – 3 Neighborhood Entry Control**

<b>Treatment</b>	<b>Description</b>	<b>Effect</b>	<b>Concerns</b>	<b>Cost</b>
Chokers	Midblock reduction of the street to a single travel lane for both directions.	Reduces speed and volume.	Costs increase if drainage needs to be rebuilt.	Medium to High
Gateway Treatment or Entrance Features	Treatment to a street that includes a sign, banner, landscaping, and roadway narrowing or other structure that helps to communicate a sense of neighborhood identity.	Reduces entry speed and pedestrian crossing distance. Discourages intrusion by cut through vehicles and identifies the area as residential.	Maintenance responsibility. May lose some on street parking.	Medium to High
Curb Extensions or Bulb-outs	Realignment of curb at intersection or mid-point of a block to decrease pavement width.. See Figure 15 - 5.	Visually and physically narrows the roadway, shortens pedestrian crossing distance, increases space for plantings, street furniture.	May impact sight distance, parking, and drainage..	Medium to High
Midblock Median, Slow Point	An island or barrier in the center of a street that separate traffic.	Provides refuge for pedestrians and cyclists.	Landscaping may impede sight distance.	Varies
Lane Narrowing	Street physically narrowed to expand sidewalks and landscaping areas. Could include median, on street parking etc.	Improved pedestrian safety.	May create conflict with opposing drivers in narrow lanes.	Medium to High
One-Way In or One-Way Out Channelization	Intersection reduction of the street to single travel lane with channelization. Also called half road closure.	Reduces speed and traffic.	Costs increase if drainage must be rebuilt. Transfers additional vehicles to other ingress/egress points.	Medium to High
Textured Pavement	A change in pavement texture, and color (e.g., asphalt to brick), that helps make drivers aware of a change in driving environment.	Enhances pedestrian crossings, bike lanes, or on street parking.	Increase maintenance. May increase noise.	Low to Medium

**From:** Ramos, Miriam  
**To:** [Paulk, Enga](#)  
**Subject:** FW: Cocoplum II entrance feature  
**Date:** Wednesday, January 02, 2019 2:40:32 PM  
**Attachments:** [Encroachment Request.pdf](#)  
[Resolution 2013-06 without attachments.pdf](#)  
[image003.png](#)  
[opinion - entrance features - ROW.docx.pdf](#)  
[image004.png](#)

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Enga, I thought I had published this opinion but do not see it online. Please publish.

Thanks,

*Miriam Soler Ramos, Esq., B.C.S.*

*City Attorney*

*Board Certified by the Florida Bar in*

*City, County, and Local Government Law*

*City of Coral Gables*

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**From:** Ramos, Miriam  
**Sent:** Monday, December 17, 2018 2:31 PM  
**To:** Kline, Charles C <CKline@cozen.com>  
**Cc:** Ceballos, Gustavo <gceballos@coralgables.com>; Santamaria, Eduardo <esantamaria@coralgables.com>  
**Subject:** Cocoplum II entrance feature

Good afternoon Mr. Kline,

As promised, Mr. Ceballos and I have reviewed the case law you provided and considered your arguments. In addition, I asked special counsel to look at the same and provide me with his opinion. We are all in agreement that the City's position thus far, with regard to entrance features in the City's right-of-way, is legally correct. Attached you will find a City Attorney opinion that sets forth the City's position.

In addition, I wish to let you know that late last week, we were informed by the Public Works Department that an application for the gates has been processed and the department is preparing a resolution for the Commission's consideration at one of the January City Commission meetings.

Sincerely,

*Miriam Soler Ramos, Esq., B.C.S.*

*City Attorney*

*Board Certified by the Florida Bar in*

*City, County, and Local Government Law*

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