



To: Peter Iglesias, City Manager

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

RE: Legal Opinion Regarding Villa Valencia - Additional Story and Unit

Date: March 13, 2020

---

As you are aware, Ord. Nos. 2017-03 and 2017-04 approved "515 Valencia" (currently known as "Villa Valencia") as a 12-story residential building with 38 units, 3.0 FAR, and a height of 131'4" with architectural features up to 147'5" feet. The applicant now wishes to build a 13 story residential building with 39 units, the same FAR, and a height of 150' feet (the December 14, 2016 Planning and Zoning Staff Report notes the permitted height at 150' citing Site Specific Zoning regulations in Appendix A of the Zoning Code). Excluded from the maximum height are "architectural elements located on the top of buildings" as provided for in Art. 5, Sec. 5-604(B)(1), Table 1. No. 3 of the City's Zoning Code.

While the change in height may be reviewed and approved as a minor or major amendment in accordance with Sec. 3-507 of the Zoning Code, at the discretion of the "Building and Zoning Department," such a process is not necessary or advised in this case, given the terms under which prior litigation, related to this project, was resolved. The request for an additional unit, should be reviewed as a minor amendment.

In May 2016, Valencia 34 Development LLC filed suit against the City relating to the development of the 515 Valencia/Villa Valencia project. That litigation was concluded in October 2016 with the filing of a Notice of Voluntarily Dismissal without Prejudice that incorporated a Letter of Understanding between the developer and the City (attached hereto) which states in pertinent part:

5. Plaintiff shall have the right to re-assert the lawsuit following the Voluntary Dismissal in the event that the revised Villa Valencia project is not approved at the presently proposed FAR of 3.0 and **13 story height**.

Consequently, a decision by staff or the City Commission that deviates from the 13-story height has a high likelihood of resulting in further litigation. For this reason, it is the position of this office that the request for one (1) additional story be granted administratively together with the request for one (1) additional unit.

This opinion is issued pursuant to Sec. 2-252(e)(1) and (8) of the City Code and Sec. 2-702 of the Zoning Code.

**Paulk, Enga**

---

**From:** Ramos, Miriam  
**Sent:** Friday, March 13, 2020 10:00 AM  
**To:** Paulk, Enga  
**Cc:** Suarez, Cristina; Ceballos, Gustavo  
**Subject:** FW: Villa Valencia - additional story and unit  
**Attachments:** Villa Valencia Notice of Dismissal.pdf

Enga, please publish.

*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  
405 Biltmore Way, 2<sup>nd</sup> Floor  
Coral Gables, FL 33134  
(305)460-5084 direct dial



**Public Records:** This e-mail is from the City of Coral Gables – City Attorney’s Office and is intended solely for the use of the individual(s) to whom it is addressed. If you believe you have received this e-mail in error, please notify the sender immediately, delete the e-mail from your computer, and do not copy or disclose to anyone else. The State of Florida has a 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 upon request.

**Confidentiality:** The information contained in this transmission may be legally privileged and confidential, intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication may be prohibited.

**From:** Ramos, Miriam  
**Sent:** Friday, March 13, 2020 10:00 AM  
**To:** Iglesias, Peter <piglesias@coralgables.com>  
**Cc:** Cabrera, Suramy <scabrera@coralgables.com>; Cejas, Devin <dcejas@coralgables.com>; Trias, Ramon <rtrias@coralgables.com>; Suarez, Cristina <csuarez@coralgables.com>  
**Subject:** Villa Valencia - additional story and unit

Peter,

As you are aware, Ord. Nos. 2017-03 and 2017-04 approved “515 Valencia” (currently known as “Villa Valencia”) as a 12 story residential building with 38 units, 3.0 FAR, and a height of 131’4” with architectural features up to 147’5” feet. The applicant now wishes to build a 13 story residential building with 39 units, the same FAR, and a height of 150’ feet (the December

14, 2016 Planning and Zoning Staff Report notes the permitted height at 150' citing Site Specific Zoning regulations in Appendix A of the Zoning Code). Excluded from the maximum height are "architectural elements located on the top of buildings" as provided for in Art. 5, Sec. 5-604(B)(1), Table 1. No. 3 of the City's Zoning Code.

While the change in height may be reviewed and approved as a minor or major amendment in accordance with Sec. 3-507 of the Zoning Code, at the discretion of the "Building and Zoning Department," such a process is not necessary or advised in this case, given the terms under which prior litigation, related to this project, was resolved. The request for an additional unit, should be reviewed as a minor amendment.

In May 2016, Valencia 34 Development LLC filed suit against the City relating to the development of the 515 Valencia/Villa Valencia project. That litigation was concluded in October 2016 with the filing of a Notice of Voluntarily Dismissal without Prejudice that incorporated a Letter of Understanding between the developer and the City (attached hereto) which states in pertinent part:

5. Plaintiff shall have the right to re-assert the lawsuit following the Voluntary Dismissal in the event that the revised Villa Valencia project is not approved at the presently proposed FAR of 3.0 and **13 story height**.

Consequently, a decision by staff or the City Commission that deviates from the 13 story height has a high likelihood of resulting in further litigation. For this reason, it is the position of this office that the request for one (1) additional story be granted administratively together with the request for one (1) additional unit.

This opinion is issued pursuant to Sec. 2-252(e)(1) and (8) of the City Code and Sec. 2-702 of the Zoning Code.

*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

405 Biltmore Way, 2<sup>nd</sup> Floor

Coral Gables, FL 33134

(305)460-5084 direct dial



**Public Records:** This e-mail is from the City of Coral Gables – City Attorney’s Office and is intended solely for the use of the individual(s) to whom it is addressed. If you believe you have received this e-mail in error, please notify the sender immediately, delete the e-mail from your computer, and do not copy or disclose to anyone else. The State of Florida has a 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 upon request.

**Confidentiality:** The information contained in this transmission may be legally privileged and confidential, intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication may be prohibited.



**STANLEY B. PRICE, ESQ.**  
Florida Bar No.: 143648  
sprice@bilzin.com

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Voluntary Dismissal was served this 24th day of October, 2016, via e-service to: Craig E. Leen, Esq., City Attorney, City of Coral Gables, 405 Biltmore Way, Second Floor, Coral Gables, FL 33134, at cleen@coralgables.com.

By: /s/ Stanley B. Price  
**STANLEY B. PRICE, ESQ.**

# EXHIBIT A



Stanley S. Price, Esq.  
 Tel: 305-350-2374  
 Fax: 305-351-2204  
 sprice@bilzin.com

October 19, 2016

The Honorable Craig E. Leen, Esq.  
 City Attorney  
 City of Coral Gables  
 405 Billmore Way, 2nd Floor  
 Miami, FL 33134

Re: Valencia 34 Development, LLC v. The City of Coral Gables  
 Case No. 2016-011188-CA-01

Dear Mr. City Attorney:

This letter will memorialize the understanding of the parties to the above-styled litigation as an inducement for the Plaintiff to voluntarily dismiss the litigation:

1. The revised Villa Valencia project will be reviewed by City of Coral Gables ("City") staff and there will be discussions with City staff regarding the site plan and the proposed site specific amendment to the Zoning Code required to increase the subject property's permitted FAR from 2.0 to 3.0.

2. The City shall timely process the pending public hearing application, which will be amended so as to include the revised Villa Valencia project site plan as well as the new request to amend the site specific zoning regulations so as to permit a maximum 3.0 FAR on the subject property. The City shall require no more than one additional hearing before the City's Board of Architects after the currently scheduled October 20, 2016 hearing. In addition, the City shall schedule the items before the City's Planning and Zoning Board hearing of November 9, 2016.

3. The Planning and Zoning Board would be required to make a recommendation on the November 9, 2016 hearing date. If four votes for a recommendation cannot be obtained, the item would go forward to the City Commission without a recommendation.

4. As there is a site specific zoning amendment, there would be two hearings before the City Commission. The first hearing shall be set for December 6, 2016, with the second hearing to follow.

5. Plaintiff shall have the right to re-assert the lawsuit following the Voluntary Dismissal in the event the revised Villa Valencia project is not approved at the presently proposed FAR of 3.0 and 13 story height. The re-filing is at Plaintiff's election. The lawsuit would be treated by the parties for purposes of claims and defenses as if it was filed on the original date, and neither the Plaintiff nor the City would be prejudiced in any

MAIL# 51760614 82354/48506  
 9:30/2016





Honorable Craig E. Leen  
October 19, 2016  
Page 2

way by the lapse of time. The City would be open to a stipulation of voluntary dismissal whereby the Court would issue an order as to these terms and retaining jurisdiction in the event the case is re-filed. The Plaintiff acknowledges that any costs associated with the re-filed complaint will be borne by Plaintiff.

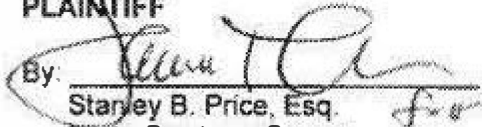
6. The City Commission would reserve its regulatory authority to approve or reject the site specific amendment following public hearing. The Plaintiff would reserve all rights, causes of action, and all legal authority to re-file the Complaint and any amendments thereto.

7. The City agrees that the amended site specific regulations will not be changed in a way that is inconsistent with the approved site plan for four years, from the date that the site specific amendment to the Zoning Code is finally approved, in order to ensure that the settlement agreement can be effectuated.

8. Based upon this letter of understanding, the Complaint will be voluntarily dismissed by the Plaintiff.

This letter of understanding is intended to express the full representations of the respective parties to the above-styled litigation.

PLAINTIFF

By:   
Stanley B. Price, Esq.  
Bilzin Sunberg Baena  
Price & Axelrod LLP

DEFENDANT

By:   
Craig E. Leen, Esq.  
City of Coral Gables, FL