



To: Ramon Trias

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 City Resident Right To Appeal; 1011 Lisbon Street

Date: July 3, 2014

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According to the Zoning Code, any "aggrieved party" may appeal to the City Commission. The definition of "aggrieved" in the Zoning Code is "any applicant or any person who received courtesy notice of a public hearing from the City and shall also mean the City Manager." It is my opinion, as a general matter, that the City should use the 1,000 foot rule to determine who has standing (which is the usual distance of courtesy notice according to the Zoning Code). Of course, I would also want to consider the specific circumstances such as whether there is a special injury providing standing to a party pursuant to case law. Ultimately, if someone outside this criteria seeks to appeal, the City should still allow the appeal to go forward, but my office could then provide an opinion to the Commission as to whether the appeal should be dismissed for lack of administrative standing, if appropriate (once my office reviews the specific facts and determines whether standing is lacking). It would then be up to the Commission to decide in considering the appeal. Please note, this interpretation only applies to appeals to the City Commission and is in no way intended as an opinion that these potential parties would or would not have standing to contest the matter in court, which would be governed by applicable case and statutory law.

As for this specific case, it is also my view that any appeal of the Board of Architects decision should be focused on aesthetics/design. Protection of the tree should be considered by Public Service and the Tree Preservation Agency at the appropriate time. In addition, it is my understanding that this application will ultimately be reviewed by the City Commission (please correct me if I am mistaken). If so, it may be warranted to postpone/stay/consolidate any appeal under the authority provided in the Zoning Code so that everything can be considered by the City Commission at the same time. Please note, if the application goes before the Commission for a public hearing, the public will be able to make their views known regarding the tree at that time as well, and the Commission will be able to take action it determines appropriate in accordance with law.

## Parramore, Carol

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**From:** Leen, Craig  
**Sent:** Thursday, July 03, 2014 7:37 PM  
**To:** Osle, Zilma; Parramore, Carol  
**Cc:** Thornton, Bridgette; Figueroa, Yaneris  
**Subject:** FW: 1011 Lisbon Street - Appeal procedure

**Importance:** High

Please place in the opinion folder.

Craig E. Leen  
City Attorney

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**From:** Leen, Craig  
**Sent:** Thursday, July 03, 2014 7:36 PM  
**To:** Trias, Ramon  
**Cc:** Mindreau, Carlos A.; Wu, Charles  
**Subject:** RE: 1011 Lisbon Street - Appeal procedure  
**Importance:** High

According to the Zoning Code, any "aggrieved party" may appeal to the City Commission. The definition of "aggrieved" in the Zoning Code is "any applicant or any person who received courtesy notice of a public hearing from the City and shall also mean the City Manager." It is my opinion, as a general matter, that the City should use the 1,000 foot rule to determine who has standing (which is the usual distance of courtesy notice according to the Zoning Code). Of course, I would also want to consider the specific circumstances such as whether there is a special injury providing standing to a party pursuant to case law. Ultimately, if someone outside this criteria seeks to appeal, the City should still allow the appeal to go forward, but my office could then provide an opinion to the Commission as to whether the appeal should be dismissed for lack of administrative standing, if appropriate (once my office reviews the specific facts and determines whether standing is lacking). It would then be up to the Commission to decide in considering the appeal. Please note, this interpretation only applies to appeals to the City Commission and is in no way intended as an opinion that these potential parties would or would not have standing to contest the matter in court, which would be governed by applicable case and statutory law.

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Please let me know if you have any questions.

Craig E. Leen  
City Attorney

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**From:** Trias, Ramon  
**Sent:** Thursday, July 03, 2014 4:52 PM

**To:** Leen, Craig  
**Cc:** Mindreau, Carlos A.; Wu, Charles  
**Subject:** FW: 1011 Lisbon Street - Appeal procedure

raig:

Please review any legal issues about the ability of a citizen to appeal a decision of the Board of Architects, based on this latest discussion. Thanks.

Ramon

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**From:** Trias, Ramon  
**Sent:** Thursday, July 03, 2014 4:49 PM  
**To:** Trias, Ramon  
**Subject:** FW: 1011 Lisbon Street - Appeal procedure

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**From:** Mindreau, Carlos A.  
**Sent:** Thursday, July 03, 2014 4:40 PM  
**To:** 'Jorey Friedman'  
**Cc:** Wu, Charles; Trias, Ramon  
**Subject:** RE: 1011 Lisbon Street - Appeal procedure

Jorey,

*I understand that any resident of the City of Coral Gables can file an appeal to the City Commission. I've forwarded this to Charles Wu, Assistant Development Services Director, and to Ramon Trias, Planning and Zoning Director so that they may be able to verify or correct my opinion.*

*You are able to withdraw your appeal any time after filing and before the actual date of the Commission meeting if you feel that a satisfactory position has been reached.*

*Thank you,*

*Carlos A. Mindreau / City Architect  
City of Coral Gables  
405 Biltmore Way  
Coral Gables, Florida 33134  
cmindreau@coralgables.com*

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**From:** Jorey Friedman [mailto:jfriedman@sb-architects.com]  
**Sent:** Thursday, July 03, 2014 3:15 PM  
**To:** Mindreau, Carlos A.  
**Cc:** Trias, Ramon  
**Subject:** 1011 Lisbon Street - Appeal procedure

Dear Carlos,

I have been on the phone a couple times today with Palm Corp Development Group. First, this morning to alert them of the possibility that I may file an appeal of the recent BOA decision RE: lot 15 at 1011 Lisbon Street, and again just a few minutes ago when they informed me that I am not even allowed to file an appeal according to Article 3, Section 3-606-

B. I picked up the application this morning, and it seems like it is all within my rights, but please let me know if this is not the case.

It is very clear that they do not want any further delay on this project which I fully understand, but also feel that I don't have any other option due to the timing and with the holiday weekend. The owner of the property (PDG) made it clear to me on the phone that if I was able to go ahead with this, it would get contentious because every day of delay means a day that he is losing money. My intent is not to make him lose money. My sole intent is to protect this tree. But, based on the current plans for that house, I am just not convinced that the tree won't be severely deformed or even survive beyond the construction. And, if I don't file an appeal at this time, I will not have any recourse once it is well into the permitting process. Is that correct? When we spoke yesterday it sounded like this is my only window.

I did speak with the arborist that was at the hearing. We had a very pleasant conversation, and he certainly seems knowledgeable, but I can't say that my mind was put entirely at ease. He agreed that until the house is staked, he cannot fully determine the impact to the limbs of the tree, or the exact proximity to the main trunks of the tree relative to building foundations, drain field and irrigation. He said he will have a much better idea once he walks the property again after that is done. Supposedly the staking will happen soon, but I'm afraid not soon enough for me *not* get the wheels in motion to meet the deadline for submittal next Monday.

I welcome your thoughts!  
Thank you,  
Jorey

**Jorey Shoshanna Friedman**  
Vice President | Senior Designer



**SB ARCHITECTS**

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