



To: Melissa Tapanes

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

A handwritten signature in black ink, appearing to be "CL", is written to the right of the "From:" line.

RE: Legal Opinion Regarding Tree Permit Appeal

Date: October 7, 2014

Thank you for your email, which I have reviewed carefully, and provide the following response. The City is not requiring an additional fee, as one was already provided in full for the BOA appeal, and this is being treated as a concurrent/consolidated matter under section 3-608(b) of the Zoning Code. Further, the City has already granted an extension of time until October 14 to provide documentation. The City has authority to grant this extension as the entity administering and hearing the appeal (there is no question that an appellate court could grant such an extension under the Florida Rules of Appellate Procedure, and it is my opinion that the City can grant one as well to ensure a complete record and an orderly hearing- indeed, this principle of ensuring a "complete record" and an "orderly hearing" is expressly recognized in section 3-608(B) of the Zoning Code)). It is also appropriate in these circumstances, as the appellant has a pending request for documents from the City (the City is conducting a review to determine whether any further documents need to be provided). It is also my opinion that this extension supports principles of due process by ensuring a complete record and orderly hearing for both sides. For example, as a general matter, the Zoning Code allows for evidentiary materials to be submitted up to five days in advance of a quasi-judicial hearing (see section 3-604(C) of the Zoning Code). Here, the appellant is being provided fourteen days to review the materials in advance of the appeal being heard, which is nine days more than would be provided for a quasi-judicial hearing under section 3-604(C) of the Zoning Code. Ultimately, this is a procedural issue within the discretion of the City, and it is my opinion as City Attorney that due process is being fully provided to all parties.

Parramore, Carol

From: Leen, Craig
Sent: Tuesday, October 07, 2014 2:43 PM
To: Osle, Zilma; Parramore, Carol
Cc: Thornton, Bridgette; Figueroa, Yanneris
Subject: FW: 1011-1015 Lisbon Street - Tree Permit Appeal

Please place in the opinion folder.

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

From: Leen, Craig
Sent: Tuesday, October 07, 2014 2:42 PM
To: 'Melissa Tapanes'
Cc: Foeman, Walter; Wu, Charles; Thornton, Bridgette; Gus De Ribeaux, Esq. (gus@gdrpa.com); 'Jorey Friedman'; Lazabal, Carmen; Birdsill, Cynthia
Subject: RE: 1011-1015 Lisbon Street - Tree Permit Appeal

Melissa,

Thank you for your email, which I have reviewed carefully, and provide the following response. The City is not requiring an additional fee, as one was already provided in full for the BOA appeal, and this is being treated as a concurrent/consolidated matter under section 3-608(b) of the Zoning Code. Further, the City has already granted an extension of time until October 14 to provide documentation. The City has authority to grant this extension as the entity administering and hearing the appeal (there is no question that an appellate court could grant such an extension under the Florida Rules of Appellate Procedure, and it is my opinion that the City can grant one as well to ensure a complete record and an orderly hearing – indeed, this principle of ensuring a “complete record” and an “orderly hearing” is expressly recognized in section 3-608(B) of the Zoning Code)). It is also appropriate in these circumstances, as the appellant has a pending request for documents from the City (the City is conducting a review to determine whether any further documents need to be provided). It is also my opinion that this extension supports principles of due process by ensuring a complete record and orderly hearing for both sides. For example, as a general matter, the Zoning Code allows for evidentiary materials to be submitted up to five days in advance of a quasi-judicial hearing (see section 3-604(C) of the Zoning Code). Here, the appellant is being provided fourteen days to review the materials in advance of the appeal being heard, which is nine days more than would be provided for a quasi-judicial hearing under section 3-604(C) of the Zoning Code. Ultimately, this is a procedural issue within the discretion of the City, and it is my opinion as City Attorney that due process is being fully provided to all parties.

Best regards,

Craig

Craig E. Leen, City Attorney

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City of Coral Gables
405 Biltmore Way
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From: Melissa Tapanes [<mailto:mtapanes@brzoninglaw.com>]
Sent: Tuesday, October 07, 2014 1:40 PM
To: Leen, Craig
Cc: Foeman, Walter; Wu, Charles; Thornton, Bridgette; Gus De Ribeaux, Esq. (gus@gdrpa.com)
Subject: RE: 1011-1015 Lisbon Street - Tree Permit Appeal
Importance: High

Dear Craig,

We respectfully request that all documents to be considered by the City Commission be provided to the City Clerk no later than October 8, 2014, the formal deadline for appeal. Specifically, all application, supporting documents and fees (for all three appeals) must be fully paid and submitted into the record by October 8, 2014. All relevant documents have been provided by staff and are a matter of public record. No extensions of times or waivers of fees would be appropriate and will render the appeal invalid as a matter of due process. The appellate record must be complete by October 8, 2014.

Please feel free to phone me to discuss.

Sincerely,
Melissa

Bio	Vcard
MELISSA TAPANES LLAHUES, ESQ.	
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From: Leen, Craig [mailto:cleen@coralgables.com]
Sent: Tuesday, October 07, 2014 11:49 AM
To: 'Jorey Friedman'; Melissa Tapanes; 'Bruce Lecure'; 'Ariel Fernandez'; 'Tamara McKeown'
Cc: Foeman, Walter
Subject: FW: 1011-1015 Lisbon Street - Tree Permit Appeal
Importance: High

Please see below. The City Commission has been notified of the consolidated/concurrent appeal, and the matter will be heard on October 28, 2014.

Craig E. Leen, City Attorney
*Board Certified by the Florida Bar in
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City of Coral Gables
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Email: cleen@coralgables.com

From: Leen, Craig
Sent: Tuesday, October 07, 2014 11:46 AM
To: Commissioners
Cc: Olazabal, Carmen; Birdsill, Cynthia; Foeman, Walter; Thornton, Bridgette
Subject: FW: 1011-1015 Lisbon Street - Tree Permit Appeal
Importance: High

Mayor and Commissioners,

Please see the information below. This matter will be coming before you as a consolidated/concurrent appeal on October 28, 2014. Please do not respond, and please call me with any questions.

Best regards,
Craig

Craig E. Leen, City Attorney
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From: Leen, Craig
Sent: Tuesday, October 07, 2014 11:22 AM
To: 'Jorey Friedman'
Cc: Bruce Lecure; Ariel Fernandez; Tamara McKeown; Olazabal, Carmen; Foeman, Walter; Birdsill, Cynthia; Tompkins, Jane; 'Melissa Tapanes'
Subject: RE: 1011-1015 Lisbon Street - Tree Permit Appeal
Importance: High

Jorey,

Thank you for this email. I am copying the City Clerk, as this serves as your notice of appeal. The City will provide you with 7 days (until October 14, 2014) to provide supporting documentation. The City requests that you copy Melissa Apanes, counsel for the applicant, on any documentation provided (she is copied on this email).

Pursuant to section 3-608(B) of the Zoning code, this matter will be heard concurrently with your Board of Architects appeal, and will be scheduled for the October 28th City Commission meeting. It is my understanding that the appellant and the property owner are agreeable to this procedure (please advise if there are any issues). As there is an active appeal pending before the City Commission, and in an abundance of caution, I would request that any communications to the City Commission as to this appeal be in writing, and should copy the City Clerk and other side, so they can be placed in the record for the upcoming proceeding. Ultimately, any decision made in this matter will be based on the record considered by the City Commission.

Please let me know if there are any questions regarding this procedure.

Craig E. Leen, City Attorney

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From: Jorey Friedman [mailto:jfriedman@sb-architects.com]
Sent: Tuesday, October 07, 2014 8:48 AM
To: Leen, Craig
Cc: Bruce Lecure; Ariel Fernandez; Tamara McKeown
Subject: 1011-1015 Lisbon Street - Tree Permit Appeal

Dear Craig,

By way of this email, we wish to formally appeal the approval of the Tree Permits for 1011 Lisbon and 1015 Lisbon.

As we discussed yesterday, we have not been provided with all relevant documents by staff to properly prepare an appeal. For this reason, we respectfully request an extension of time to submit a formal appeal to the permit approvals and necessary supporting documentation.

We would accept the recommendation for this appeal to bypass the Tree Protection Appeal Committee and go directly to the City Commission.

Thank you,
Best Regards,
Jorey

Jorey Shoshanna Friedman
Vice President | Senior Designer



SB ARCHITECTS

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Please Note: Florida has a very 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 and media upon request. Your email communications may therefore be subject to public disclosure.