



From: Bridgette Thornton Richard, Deputy City Attorney for the City of Coral Gables

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

RE: Legal Opinion Regarding Scrivener's Error- Section 46-41 Of Municipal Code

Date: April 1, 2013

---

I reviewed Section 46-41 of the City of Coral Gables Municipal Code and I agree with your conclusion that it contains a scrivener's error with regard to its citation of Florida Statutes Section 212.08(7)(a). In relevant part, Section 46-41 provides as follows: "Solicitors or vendors making calls or soliciting orders on behalf of religious, charitable, scientific, educational, or veterans' institutions or organizations holding a sales tax exemption certificate under F.S. § 212.08(7)(a) are excluded from the operation of this section." City of Coral Gables Municipal Code Section 46-41 (emphasis added). However, Florida Statutes Section 212.08(7)(a) only exempts merchants of artificial commemorative flowers. More specifically, Florida Statutes Section 212.08(7)(a) states, "[e]xempt from the tax imposed by this chapter is the sale of artificial commemorative flowers by bona fide nationally chartered veterans' organizations." Fla. Stat. Section 212.08(7)(a). Meanwhile, Florida Statutes Section 212.08(7), read in its entirety (provisions (a)- jjjj)), exempts a multitude of charitable groups including religious institutions and other veteran organizations. Therefore, a reference in the Coral Gables Municipal Code Section 46-41 limited to only subpart (7)(a) of Florida Statutes Section 212, i.e. merchants of commemorative artificial flowers, would appear to be erroneous as it would necessarily exclude a broad host of charitable organizations otherwise exempt under Section 212.08(7). Moreover, such a limitation would undermine the broad exemption otherwise created under Section 46-41 for charitable organizations. Indeed, Section 46-41 does not contain any express language regarding commemorative artificial flowers, but, rather, expressly provides exemption to "religious, charitable, scientific, educational, or veterans' institutions." City of Coral Gables Municipal Code Section 46-41. As a result, it is my conclusion that Section 46-41 of the Coral Gables Municipal Code currently contains a scrivener's error, which should be corrected so that it references Florida Statutes Section 212.08(7) as opposed to Section 212.08(7)(a). Please note that I reviewed these provisions with Yaneris who concurs with my analysis.

## Hernandez, Cristina

---

**From:** Leen, Craig  
**Sent:** Monday, April 01, 2013 4:01 PM  
**To:** Thornton Richard, Bridgette  
**Cc:** Figueroa, Yaneris; Franqui, Susan; Hernandez, Cristina  
**Subject:** RE: Scivener's Error - Section 46-41 of the Coral Gables Municipal Code

Excellent analysis. Cristina, please place in the opinion folder.

Craig E. Leen  
City Attorney

---

**From:** Thornton Richard, Bridgette  
**Sent:** Monday, April 01, 2013 3:54 PM  
**To:** Leen, Craig  
**Cc:** Figueroa, Yaneris; Franqui, Susan; Hernandez, Cristina  
**Subject:** Scivener's Error - Section 46-41 of the Coral Gables Municipal Code

Good Afternoon Mr. Leen,

As you requested, I reviewed Section 46-41 of the City of Coral Gables Municipal Code and I agree with your conclusion that it contains a scrivener's error with regard to its citation of Florida Statutes Section 212.08(7)(a). In relevant part, Section 46-41 provides as follows: "Solicitors or vendors making calls or soliciting orders on behalf of religious, charitable, scientific, educational, or veterans' institutions or organizations holding a sales tax exemption certificate under F.S. § 212.08(7)(a) are excluded from the operation of this section." City of Coral Gables Municipal Code Section 46-41 (emphasis added). However, Florida Statutes Section 212.08(7)(a) only exempts merchants of artificial commemorative flowers. More specifically, Florida Statutes Section 212.08(7)(a) states, "[e]xempt from the tax imposed by this chapter is the sale of artificial commemorative flowers by bona fide nationally chartered veterans' organizations." Fla. Stat. Section 212.08(7)(a). Meanwhile, Florida Statutes Section 212.08(7), read in its entirety (provisions (a) – (jjj)), exempts a multitude of charitable groups including religious institutions and other veteran organizations. Therefore, a reference in the Coral Gables Municipal Code Section 46-41 limited to only subpart (7)(a) of Florida Statutes Section 212, i.e. merchants of commemorative artificial flowers, would appear to be erroneous as it would necessarily exclude a broad host of charitable organizations otherwise exempt under Section 212.08(7). Moreover, such a limitation would undermine the broad exemption otherwise created under Section 46-41 for charitable organizations. Indeed, Section 46-41 does not contain any express language regarding commemorative artificial flowers, but, rather, expressly provides exemption to "religious, charitable, scientific, educational, or veterans' institutions." City of Coral Gables Municipal Code Section 46-41. As a result, it is my conclusion that Section 46-41 of the Coral Gables Municipal Code currently contains a scrivener's error, which should be corrected so that it references Florida Statutes Section 212.08(7) as opposed to Section 212.08(7)(a). Please note that I reviewed these provisions with Yaneris who concurs with my analysis. Please let me know if you have any questions or concerns.

Thank you,

Bridgette N. Thornton Richard  
Deputy City Attorney for the City of Coral Gables  
105 Biltmore Way, 2<sup>nd</sup> Floor  
Coral Gables, FL 33134  
Office: (305) 460-5084  
Cell: (305) 801-5797

Fax: (305) 476-7795

**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.

\*\*\*\*\*

**NOTICE:** This e-mail is from the law office of the City of Coral Gables, and is intended solely for the use of the individual(s) to whom it is addressed. If you believe you received this e-mail in error, please notify the sender immediately, delete the e-mail from your computer and do not copy or disclose it to anyone else. If you properly received this e-mail as a client, co-counsel or retained expert of the office of the City Attorney, you should maintain its contents in confidence in order to preserve the attorney-client or work product privilege that may be available to protect confidentiality.

## Hernandez, Cristina

---

**From:** Leen, Craig  
**Sent:** Monday, April 01, 2013 4:13 PM  
**To:** Foeman, Walter  
**Cc:** Olazabal, Carmen; Tompkins, Jane; Thornton Richard, Bridgette; Figueroa, Yaneris; Hernandez, Cristina  
**Subject:** FW: Scivener's Error - Section 46-41 of the Coral Gables Municipal Code

Walter,

Please see the opinion below, with which I concur. Pursuant to my authority under section 2-201(e)(9) of the City Code, please inform the Municipal Code Corporation that section 46-41 of the City Code contains a scrivener's error and should be revised to remove the "(a)" at the end of the citation to F.S. § 212.08(7)(a), so that it now simply states F.S. § 212.08(7). Also, please add a "d" to the end of the title where it presently says "permit require" so that it now says "permit required," which is another scrivener's error. The revised section should read as follows:

Sec. 46-41. – Declared a nuisance; permit required.

The practice of going in and upon any property, residential or business, in the city by solicitors and itinerant vendors of merchandise and the like, is hereby declared to be a private nuisance, punishable as such unless such person shall first have applied for and received from the city a permit as provided in this article except those solicitors or itinerant vendors making a visit upon the express invitation, oral or written, of an inhabitant of the premises or his or her agent.

Solicitors or vendors making calls or soliciting orders on behalf of religious, charitable, scientific, educational, or veterans' institutions or organizations holding a sales tax exemption certificate under F.S. § 212.08(7) are excluded from the operation of this section.

Respectfully submitted,

Craig E. Leen  
City Attorney

---

**From:** Thornton Richard, Bridgette  
**Sent:** Monday, April 01, 2013 3:54 PM  
**To:** Leen, Craig  
**Cc:** Figueroa, Yaneris; Franqui, Susan; Hernandez, Cristina  
**Subject:** Scivener's Error - Section 46-41 of the Coral Gables Municipal Code

Good Afternoon Mr. Leen,

As you requested, I reviewed Section 46-41 of the City of Coral Gables Municipal Code and I agree with your conclusion that it contains a scrivener's error with regard to its citation of Florida Statutes Section 212.08(7)(a). In relevant part, Section 46-41 provides as follows: "Solicitors or vendors making calls or soliciting orders on behalf of religious, charitable, scientific, educational, or veterans' institutions or organizations holding a sales tax exemption certificate under F.S. § 212.08(7)(a) are excluded from the operation of this section." City of Coral Gables Municipal Code Section 46-41 (emphasis added). However, Florida Statutes Section 212.08(7)(a) only exempts merchants of artificial commemorative flowers. More specifically, Florida Statutes Section 212.08(7)(a) states, "[e]xempt from the tax imposed by this chapter is the sale of artificial commemorative flowers by bona fide nationally chartered veterans'

organizations." Fla. Stat. Section 212.08(7)(a). Meanwhile, Florida Statutes Section 212.08(7), read in its entirety (provisions (a) – (jjj)), exempts a multitude of charitable groups including religious institutions and other veteran organizations. Therefore, a reference in the Coral Gables Municipal Code Section 46-41 limited to only subpart (7)(a) of Florida Statutes Section 212, i.e. merchants of commemorative artificial flowers, would appear to be erroneous as it would necessarily exclude a broad host of charitable organizations otherwise exempt under Section 212.08(7). Moreover, such a limitation would undermine the broad exemption otherwise created under Section 46-41 for charitable organizations. Indeed, Section 46-41 does not contain any express language regarding commemorative artificial flowers, but, rather, expressly provides exemption to "religious, charitable, scientific, educational, or veterans' institutions." City of Coral Gables Municipal Code Section 46-41. As a result, it is my conclusion that Section 46-41 of the Coral Gables Municipal Code currently contains a scrivener's error, which should be corrected so that it references Florida Statutes Section 212.08(7) as opposed to Section 212.08(7)(a). Please note that I reviewed these provisions with Yanerjs who concurs with my analysis. Please let me know if you have any questions or concerns.

Thank you,

Bridgette N. Thornton Richard  
Deputy City Attorney for the City of Coral Gables  
405 Biltmore Way, 2<sup>nd</sup> Floor  
Coral Gables, FL 33134  
Office: (305) 460-5084  
Cell: (305) 801-5797  
Fax: (305) 476-7795

**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.

\*\*\*\*\*

**NOTICE:** This e-mail is from the law office of the City of Coral Gables, and is intended solely for the use of the individual(s) to whom it is addressed. If you believe you received this e-mail in error, please notify the sender immediately, delete the e-mail from your computer and do not copy or disclose it to anyone else. If you properly received this e-mail as a client, co-counsel or retained expert of the office of the City Attorney, you should maintain its contents in confidence in order to preserve the attorney-client or work product privilege that may be available to protect confidentiality.