CAO 2015-037

To: Carmen Olazabal

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

RE: Legal Opinion Regarding Music Video Information

Date: May 1, 2015

I have reviewed the matter and discussed with special counsel as well. Pursuant to section 2-201(e)(1) and (8) of the City Code, it is my opinion that the Venetian Pool is a non-public forum. The City administers the pool in its proprietary capacity and charges admission for entrance. The City also advertises the pool to families as a place to bring children, and this advertisement/brand helps the City attract residents and non-residents to the pool. The City is rightfully concerned about any use of the pool that would be inconsistent with its family-oriented theme, as that would undermine the brand it seeks to promote. It is my view that the City therefore has extensive discretion as to whether to allow a company to commercially use the pool, including to create a film or video. The City has the right to consider how such use would affect its branding of Venetian Pool. Here, the proposed use described by the applicant is adult-oriented and expressly indicates that the viewers would be "voyeurs." After reviewing the attached description and application, it is my opinion that City staff has discretion to reject the application as being contrary to how the City would like Venetian Pool portrayed. It is also my understanding that there is a prior precedent for such rejection

Herbello, Stephanie

From: Leen, Craig
Sent: Friday, May 01, 2015 6:56 PM
To: Herbello, Stephanie
Cc: Ramos, Miriam; Figueroa, Yaneris; Chen, Brigette
Subject: FW: Music Video Information
Attachments: Ray J Brown Sugar Summary.docx; Film Permit.pdf

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

CORAL GABLES

Celebrating 90 years of a dream realized.

From: Leen, Craig
Sent: Friday, May 01, 2015 6:55 PM
To: Olazabal, Carmen
Cc: Couceyro, Fred; 'Abby Corbett'; Ramos, Miriam
Subject: RE: Music Video Information

I have reviewed the matter and discussed with special counsel as well. Pursuant to section 2-201(e)(1) and (8) of the City Code, it is my opinion that the Venetian Pool is a non-public forum. The City administers the pool in its proprietary capacity and charges admission for entrance. The City also advertises the pool to families as a place to bring children, and this advertisement/brand helps the City attract residents and non-residents to the pool. The City is rightfully concerned about any use of the pool that would be inconsistent with its family-oriented theme, as that would undermine the brand it seeks to promote. It is my view that the City therefore has extensive discretion as to whether to allow a company to commercially use the pool, including to create a film or video. The City has the right to consider how such use would affect its branding of Venetian Pool. Here, the proposed use described by the applicant is adult-oriented and expressly indicates that the viewers would be "voyeurs." After reviewing the attached description and application, it is my opinion that City staff has discretion to reject the application as being contrary to how the City would like Venetian Pool portrayed. It is also my understanding that there is a prior precedent for such rejection.

Craig E. Leen, City Attorney
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405 Biltmore Way
Coral Gables, Florida 33134
Phone: (305) 460-5218
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Email: cleen@coralgables.com

CORAL GABLES

Celebrating 90 years of a dream realized.

From: Olazabal, Carmen
Sent: Friday, May 01, 2015 3:07 PM
To: Leen, Craig
Cc: Couceyro, Fred
Subject: FW: Music Video Information

Craig,

Attached is the film permit application we were discussing. Please review and let us know your opinion.

Thank you,

Carmen Olazabal, P.E.
Assistant City Manager for Operations
City of Coral Gables
405 Biltmore Way
Coral Gables, Florida 33134
Office: (305) 460-5204
colazabal@coralgables.com

CORAL GABLES

Celebrating 90 years of a dream realized.

From: Couceyro, Fred
Sent: Wednesday, April 29, 2015 3:33 PM
To: Olazabal, Carmen
Subject: FW: Music Video Information

Hello Carmen,

Please see the attached film permit request to film at Venetian Pool. The artist in question for this video is Ray J.

Fred Couceyro, CPRP
Parks and Recreation Director
City of Coral Gables Parks and Recreation Division
405 University Drive, Coral Gables, FL 33134
T: 305.460.5604 • F: 305.460.5639
http://www.gablesrecreation.com

It Starts In Parks

Coral Gables is proud to be a 2009, 2010 and 2011 Playful City USA Community.

City of Coral Gables Parks & Recreation Department Mission Statement:
To enhance the quality of life for residents and guests of all ages through recreational opportunities and facilities that create memorable life experiences.

From: Vester, Carolina
Sent: Wednesday, April 29, 2015 2:03 PM
To: Couceyro, Fred
Cc: Vilar, Jose; Espino, Sarah
Subject: FW: Music Video Information

Fred,

I have received a request to shoot a daytime music video at the Venetian Pool at some point with in the next two weeks. They are willing to schedule it on a Monday so as not to disturb operations and are willing to pay any additional fees. I have asked her for a summary of the shoot which I have attached in this email. Please let me know how you would like me to handle this request or if you need any additional information from them.

Thank you,

Carolina Vester, AFO
Venetian Pool Aquatics Supervisor
City of Coral Gables Venetian Pool
2701 De Soto Blvd. Coral Gables, FL 33134
T: 305.460.5344 • F: 305.774.7031

It Starts In Parks
www.venetianpool.com

CORAL GABLES

Celebrating 90 years of a dream realized.

From: Rachel Berg [mailto:rachb29@gmail.com]
Sent: Wednesday, April 29, 2015 1:48 PM
To: Vester, Carolina
Subject: Music Video Information

Attached is additional information on the shoot.

Lots of Free Love

Rachel Berg Co- Founder of Free Love
C: (561) 350-8216

FreeLoveFashion

Kottonzoo.com/FreeLoveFashion

Facebook.com/4REEL0VE

Instagram.com/FreeLoveFashion

Ray J
"Brown Sugar"
Director: R. Malcolm Jones

Dates: 5/11 or 5/18 We are working to have a Monday shoot; So we don't disrupt the Venetian Pool operations.

Time: Daytime

Summary:

Brown Sugar opens at a secluded, vacation tropical oasis in Miami where women of all ethnicities represent their own brand of beauty.

When we first move through the space it feels enchanted, the perfect backdrop for Ray J to have his performance. Spending the day in paradise, the sunshine, fun playful shots in the waterfall, swimming underwater, teases viewers in this voyeuristic adventure. We cut to different locations, beautiful women of different ethnicities black, Latin, caramel, and dark skinned walking a runway, as he delivers the hook the women model behind him modeling in the water creating the backdrop. The sleek, sculpturesque outlines of the models reflections in the water create a look that is a sharp and photographic amongst Ray J's charismatic performance. We're voyeurs here; the vibe is mysterious, intimate while maintaining a crisp, commercial look. The shots feel big and cinematic.

We cut to a shot of Ray J driving off in an expensive vehicle, a Latin woman "brown sugar riding shotgun," the sun beaming down on him.
FADE TO BLACK

The City of Coral Gables Parks & Recreation Department • 405 University Drive • Coral Gables, Florida 33134 • Tel: 305-460-5620 • Fax: 305-460-5639

Film & Photography Permit

PERMIT #: VP

LEGAL NAME OF THE PERMIT APPLICANT (COMPANY OR INDIVIDUAL): Battle Picture LLC

TODAY'S DATE:

CONTACT PERSON FOR THIS PERMIT APPLICATION:	CONTACT PERSON PHONE:	CONTACT PERSON FAX:	CONTACT PERSON EMAIL:
Jai Santiago	305 764 9260		quetta.santiago@gmail.com

PERMIT APPLICATION ADDRESS:	CITY	STATE	ZIP
5645 Coral Ridge Dr Suite 258	Coral Springs	FL	33076

PERMIT APPLICANT PHONE:	PERMIT APPLICANT FAX:	PERMIT APPLICANT EMAIL:
786 877 6271		quetta.santiago@gmail.com

IS THE CONTACT PERSON AN OFFICER OF THE LEGAL ENTITY? ☑ YES* ☐ NO**

*IF YES, ATTACH VERIFICATION FROM SUNBIZ.ORG.
**IF NO, GO TO NEXT QUESTION

IS THE CONTACT PERSON AN AUTHORIZED AGENT OF THE APPLICANT? ☑ YES* ☐ NO

*IF YES, CONTACT PERSON (AUTHORIZED AGENT) MUST PROVIDE THE CITY WITH A LIMITED POWER OF ATTORNEY EVIDENCING THAT THEY ARE AUTHORIZED TO EXECUTE LEGALLY BINDING CONTRACTS ON BEHALF OF THE PERMIT APPLICANT.

IF NO, THEN THIS AGREEMENT MUST BE EXECUTED (SIGNED) BY AN OFFICER OR AUTHORIZED AGENT OF THE LEGAL ENTITY.

CLIENT: Ray J

PLEASE PROVIDE A MAP OR PICTURE OF LOCATION SITE FOR CLEAR IDENTIFICATION.

LOCATION 1: Entire Facility - Venetian Pool
NAME ADDRESS

FILM: _____
DATES NO. OF DAYS HOURS: START END

LOCATION 2: _____
NAME ADDRESS

FILM: _____
DATES NO. OF DAYS HOURS: START END

LOCATION 3: _____
NAME ADDRESS

FILM: _____
DATES NO. OF DAYS HOURS: START END

PRODUCTION TYPE: ☐ STILL ☑ MOTION PICTURE/VIDEO ☐ FILM ☐ MAJOR MOTION PICTURE

CLASSIFICATION: ☐ COMMERCIAL ☐ INDUSTRIAL ☑ TV ☐ MULTIMEDIA ☐ DOCUMENTARY ☐ FEATURE ☐ RESIDENTIAL ☐ STUDENT PROJECT ☐ OTHER _____

TOTAL PERSONNEL: 60 EST. EXPENDITURES: $ TBD

TOTAL VEHICLES/EQUIP: TBD (GENERATORS) TBD (CARS) TBD (TRUCKS) TBD (CATERING VEHICLE) TBD (VANS) (OTHER)

INSURANCE CARRIER: TBA

DESCRIPTION: _____

PARKING REQUIREMENTS: _____

SPECIAL EFFECTS: ☐ YES ☐ NO; IF SO, PLEASE LIST ALL THAT APPLY _____

Indemnification:

For and in consideration of the City of Coral Gables consent to allow the Applicant to conduct any type of filming and/or photography operations, productions and/or shoots within the limits of the City of Coral Gables, the Applicant agrees as follows:

The Permit Applicant jointly and severally, hereby hold harmless, indemnify and defend the City of Coral Gables, its representatives, officers, agents, affiliates, employees, the administration and elected and appointed officials from and against all liability, suits, actions, claims, costs, expenses or demands (including, without limitation, suits, actions, claims, costs, expenses or demands resulting from death, personal injury and property damage) or expenses of every kind and character, including reasonable attorney's fees, costs and appeals, arising or resulting in whole or in part, as a result of any tort, intentional action, negligent acts or omissions on the part of the Permit Applicant or any of the participants of the Event outlined in this application. This indemnification provision shall survive the termination of this contract and shall be in full force and effect beyond the term or termination of this contract, however, terminated. This indemnification provision includes claims made by the entitlement, if any, to immunity under section 440.11, Florida Statutes. Nothing contained herein shall be construed as a waiver of any immunity or limitation of liability the City may have under the doctrine of sovereign immunity of section §768.28, Florida Statutes.

Permittee agrees to all the terms and conditions of this permit, including provisions on the reverse side of this form and any attachments; agrees to obtain prior City approval for deviations from the information provided herein; and understands that failure to comply with these requirements may result in the immediate cancellation of production.

Weather Note: Renewable without fee, if weather conditions are unfavorable for shooting.

APPLICANT/TITLE _____ DATE 4/28/15

NOTES:

OFFICE USE ONLY

DATE RECEIVED: _____ DATE PERMITTED: _____

PARKING METER NUMBERS: # _____ # _____ # _____

HAVE BUSINESS OWNERS AND/OR RESIDENCE BEEN NOTIFIED? ☐ YES ☐ NO SHOT IN THE CITY OF CORAL GABLES? ☐ YES ☐ NO

REVIEWED BY: ☐ POLICE ☐ FIRE ☐ TRAFFIC-ENGINEERING ☐ MAINT. SERVICES ☐ RISK MANAGEMENT ☐ FILM LIAISON

PHOTO FEES: $ _____

420-329-830

APPROVED DATE

TOTAL FEES: $

TYPE OF PERMIT:

☐ A. PUBLIC PROPERTY-STILL PHOTOGRAPHY ☐ B. PUBLIC PROPERTY-MOTION PICTURE/VIDEO

☐ C. RESIDENTIAL- LARGE STILL/COMMERCIAL/VIDEO ☐ D. RESIDENTIAL-MAJOR MOTION PICTURE

Visit us on the web at www.gablesrecreation.com or e-mail us at parksandrecreation@coralgables.com.

•THIS COVER SHEET MUST BE PROVIDED WITH ALL INSURANCE DOCUMENTS•

Film Permit Cover Sheet For Evidencing Insurance to the City of Coral Gables

Legal Name of Permit Applicant (Individual or Company): _____

Insurance is being submitted for ongoing Filming Operations (circle one): YES or NO
Insurance is being submitted for a onetime Film Permit (circle one): YES or NO
(Circle YES next to onetime Film Permit if you do not anticipate performing any film shoots in the City during the next 12 months and this film shoot is a onetime event).

Without limiting PERMIT APPLICANT'S indemnification of the CITY, and during the term of this Agreement, PERMIT APPLICANT shall provide and maintain at its own expense the below described programs of insurance. Such programs and evidence of insurance shall be satisfactory to the CITY and shall be primary to and not contributing with any other insurance or self-insurance program maintained by the CITY. Certificates or other evidence of coverage shall be delivered via email, fax or US mail to;

Certificate Holder should read:

Email address:
cityofcoralgables@ebix.com

City of Coral Gables
Insurance Compliance
PO Box 12010 - CE
Hemet, CA 92546-8010

Such certificates or other evidence of coverage shall be delivered prior to commencing performance under this Permit, and shall contain the express condition that the CITY is to be given written notice of at least thirty (30) days in advance of any cancellation, non-renewal or material change of any insurance policy.

Insurance Requirements For Companies and/or Commercial Shoots

Companies & Commercial Shoots are required to evidence the following Insurance to the City;

Insurance Coverage Type	Limit of Liability Required			
Commercial General Liability	Each Occurrence	$1,000,000	Aggregate	$2,000,000
Liquor Liability (required if liquor is served)	Each Occurrence	$1,000,000	Aggregate	$2,000,000

- All insurance policies evidenced to the City shall name the City of Coral Gables as an Additional Insured on a Primary and Non-contributory basis.
- All insurance policies evidenced to the City shall contain A Waiver of Subrogation Endorsement in favor of the City of Coral Gables.
- All insurance companies providing coverage must have an A.M. Best rating of at least (A-/VI) or an equivalent rating given by a recognized rating agency.

When evidencing insurance to the City, the following documents must be provided;

1. This Cover Sheet with all of the questions above answered.
2. A Certificate of Liability Insurance naming the City of Coral Gables as an additional insured on a primary and non-contributory basis including a Waiver of Subrogation in favor of the City.
3. A copy of the Endorsements evidencing that Additional Insured status has been provided to the City and that this coverage has been provided on a Primary & Non-Contributory Basis.
4. A copy of the all Waiver of Subrogation Endorsements for each line of coverage required.

Insurance Requirements When Not a Commercial Shoot

Individuals are required to evidence the following Insurance to the City;

Insurance Coverage Type	Limit of Liability Required	
Personal Liability Insurance	Each Occurrence	$300,000

Individuals evidencing insurance must provide the following documents to the City;

1. This Cover Sheet with all of the questions above answered.
2. A Certificate of Liability Insurance naming the City of Coral Gables as an additional insured.

City of Coral Gables Insurance Compliance Contact Information
Phone: (951) 652-2883 • Fax: (770) 325-0417 • Email: cityofcoralgables@ebix.com