CAO 2012-021

To: Murray Greenberg

From: Joe Jimenez

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

RE: Legal Opinion Regarding Florida Building Code

Date: October 9, 2012

Article II of Chapter 105 of the Coral Gables City Code (105.23) adopts the Florida Building Code by reference. Therefore, the City's Code Enforcement officers are already authorized to cite violators of any provision of that code without the need to "deputize" them.

However, in order to make the case at hearing, I would have a building inspector or the building official ready to testify if an interpretation of the Building Code is required to prove the case. Please let me know if you have any further questions.

Hernandez, Cristina

From: Leen, Craig
Sent: Tuesday, October 09, 2012 12:02 PM
To: Hernandez, Cristina; Osle, Zilma
Cc: Thornton Richard, Bridgette
Subject: FW: Citing under the Florida Building Code

Please attach the opinion below from outside counsel to my opinion regarding the Florida Building Code.

Craig E. Leen
City Attorney
City of Coral Gables
405 Biltmore Way
Coral Gables, Florida 33134
Phone: (305) 460-5218
Fax: (305) 460-5264
Email: cleen@coralgables.com

-----Original Message-----
From: Joe Jimenez [mailto:JJimenez@stearnsweaver.com]
Sent: Tuesday, October 09, 2012 11:27 AM
To: Murray Greenberg; Leen, Craig
Subject: RE: Citing under the Florida Building Code

Article II of Chapter 105 of the Coral Gables City Code (105.23) adopts the Florida Building Code by reference. Therefore, the City's Code Enforcement officers are already authorized to cite violators of any provision of that code without the need to "deputize" them.

However, in order to make the case at hearing, I would have a building inspector or the building official ready to testify if an interpretation of the Building Code is required to prove the case. Please let me know if you have any further questions.

Joe Jimenez, Esq.
Stearns Weaver Miller
Weissler Alhadeff & Sitterson, P.A.
150 West Flagler Street, Suite 2200
Miami, Florida 33130
Direct: 305.789.3341
Main: 305.789.3200
Fax: 305.789.2682
jjimenez@stearnsweaver.com
www.stearnsweaver.com

-----Original Message-----
From: Murray Greenberg
Sent: Tuesday, October 09, 2012 11:13 AM
To: Joe Jimenez

Subject: FW: Citing under the Florida Building Code

Joe:

This seems right up your alley. Can you look at this and get back to Craig and me? Thx.

Murray A. Greenberg, Of Counsel
Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.
150 West Flagler Street, Suite 2200
Miami, Fl 33130
Direct: 305 789 3564
Main: 305 789 3200
Direct Fax: 305 789 2628
Main Fax: 305 789 3395
mgreenberg@stearnsweaver.com

-----Original Message-----
From: Leen, Craig [mailto:cleen@coralgables.com]
Sent: Tuesday, October 09, 2012 11:10 AM
To: Murray Greenberg
Cc: Thornton Richard, Bridgette
Subject: FW: Citing under the Florida Building Code

Murray,

Please review the email below and let me know your thoughts. The City would like to be able to have our Code Enforcement officers cite the Building Code for minor violations (such as work without a permit) under our Building Official's supervision, but want to make sure it is consistent with the Building Code.

Craig E. Leen
City Attorney
City of Coral Gables
405 Biltmore Way
Coral Gables, Florida 33134
Phone: (305) 460-5218
Fax: (305) 460-5264
Email: cleen@coralgables.com

-----Original Message-----
From: Ortiz, William
Sent: Monday, October 08, 2012 1:22 PM
To: Leen, Craig
Subject: FW: Citing under the Florida Building Code

Good afternoon Craig:

I checked with Manny Lopez on the code officer's ability to cite under the Florida Building Code. I remember you mentioning something about Manny deputizing the officers or some other method that would allow them to do so. He referred me back to you. What's the final word on this?

-----Original Message-----
From: Lopez, Manuel
Sent: Thursday, October 04, 2012 2:08 PM
To: Ortiz, William
Subject: RE: Citing under the Florida Building Code

I think he checked with the City of Miami and it can be done, but you need to check with Craig.

Manuel Z. Lopez, P.E.
Building Official
City of Coral Gables
Building & Zoning Department
305-460-5242

-----Original Message-----
From: Ortiz, William
Sent: Thursday, October 04, 2012 12:52 PM
To: Lopez, Manuel
Subject: Citing under the Florida Building Code

Good afternoon Manny:

I believe Craig Leen spoke to you about Code Enforcement Officers citing under the Florida Building Code. I wanted to ask you, can they do so?

William Ortiz

Code Enforcement Director

Development Services Department

City of Coral Gables

427 Biltmore Way Suite 100

Coral Gables, FL 33134

Ph: 305-460-5271

Fax: 305-460-5348

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Hernandez, Cristina

From: Leen, Craig
Sent: Tuesday, October 09, 2012 11:50 AM
To: Osle, Zilma; Hernandez, Cristina
Cc: Thornton Richard, Bridgette
Subject: FW: Florida Building Code

Please place in the opinion folder.

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

From: Leen, Craig
Sent: Tuesday, October 09, 2012 11:49 AM
To: Ortiz, William
Cc: Thornton Richard, Bridgette; Tompkins, Jane; Olazabal, Carmen; Lopez, Manuel; 'Murray Greenberg'; Joe Jimenez
Subject: Florida Building Code

Will,

I have conferred by email with outside counsel (Joe Jimenez from Stearns Weaver), who was very helpful, and have considered the matter. Section 105-23 of the City Code incorporates the Florida Building Code. Accordingly, as long as the Building Official does not object, I am comfortable with your officers citing section 105-23 along with the applicable incorporated provision of the Florida Building Code for non-technical matters (such as doing work without a permit). The Building Official or a building inspector should be consulted if Code Enforcement would like to cite any technical requirements of the Florida Building Code, however, and such officer should be available to testify before the Code Enforcement Board or hearing officer if a technical interpretation of the Florida Building Code is required.

Craig E. Leen
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