



To: Michael D. Katz

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

A handwritten signature in black ink, appearing to be "C. Leen", is written over the "From:" line.

RE: Legal Opinion Regarding Ground Leases and Permit Joinder

Date: March 30, 2015

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I can understand your concern. Your client is the owner of the buildings and is a long-term ground lessee. In such circumstances, it is my view that your client should be able to sign for the permit, at the very least as to the buildings. I am asking the Building Director, Bill Miner, to work with you to make this happen.

## Herbello, Stephanie

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**From:** Leen, Craig  
**Sent:** Monday, March 30, 2015 6:42 PM  
**To:** Herbello, Stephanie  
**Subject:** FW: Ground leases/ City of Coral Gables/ Permit joinder

**Importance:** High

Please place in the opinion folder.

**Craig E. Leen, City Attorney**  
*Board Certified by the Florida Bar in  
City, County and Local Government Law*  
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**From:** Leen, Craig  
**Sent:** Monday, March 30, 2015 6:42 PM  
**To:** 'MDK-Michael D. Katz'  
**Cc:** Figueroa, Yaneris; Miner, William; Ramos, Miriam  
**Subject:** RE: Ground leases/ City of Coral Gables/ Permit joinder  
**Importance:** High

Michael,

Thank you for your email. I hope you have been well. I can understand your concern. Your client is the owner of the buildings and is a long-term ground lessee. In such circumstances, it is my view that your client should be able to sign for the permit, at the very least as to the buildings. I am asking the Building Director, Bill Miner, to work with you to make this happen.

Best regards,

**Craig E. Leen, City Attorney**  
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**From:** MDK-Michael D. Katz [<mailto:MDK@katzbarron.com>]  
**Sent:** Monday, March 30, 2015 9:26 AM  
**To:** Leen, Craig

**Cc:** Figueroa, Yaneris

**Subject:** Ground leases/ City of Coral Gables/ Permit joinder

Craig,

I hope this note finds you well and "No" this is not about the Biltmore.

I have a Client who holds a 99 year ground lease( three actually in virtually identical form and recorded in the public records) on parcels in Coral Gables who reports that he has been denied the ability to apply for building permits for repair, maintenance and alteration of buildings constructed on the leased property reportedly because in the view of the City he is not an "owner" of the property. As the tenant under this long term ground lease he is *expressly* and without doubt the owner of the *buildings* on the leased land until the end of the term. Indeed, the Client has for many years not encountered this issue in Coral Gables or elsewhere in Miami Dade County when pulling building permits for alterations, repairs and maintenance on the buildings and filing supporting Notices of Commencement.

In further support of the Clients ability to pull permits as Owner/ Ground Lessee, the ground leases do not have any requirement for landlord plan approval, contain provisions exonerating the fee from liability for mechanics liens, and *obligate* the tenant to maintain the buildings. Finally, the ground lease provides that the buildings will become the property of the fee owner *only* at the end of the Lease Term.

As I am sure you can appreciate, ground leases executed 50 years ago or more that are 60% through the 99 year term, as in the instant case, have disappointed many fee owners in terms of economic performance and securing any cooperation from those folks is the beginning of an endless renegotiation of the lease terms and any such negotiations empowers the fee owners far beyond their legal rights and is frankly a significant and likely unintended diminishment of the tenant's property rights. I write to you as the building official may have attributed this change in policy to your office and my belief is that if that is so you may not have been informed of the above facts.

At your request, I am copying Yaneris Figueroa , Assistant City Attorney on this e mail and I look forward to hearing from her concerning this matter.

Best Wishes,

**KATZ | BARRON**  
**SQUITERO | FAUST**

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