



To: Javier Betancourt, Director of Economic Development and Walter Foeman, City Clerk

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

A handwritten signature in blue ink, appearing to be "CL", is written over the name "Craig E. Leen".

RE: Legal Opinion Regarding Board Member Absences

Date: October 28, 2015

The Economic Development Department requested guidance and assistance regarding board member absences.

I have the following responses to your question regarding board member absences:

- (1) It may be worthwhile to request that the Commission consider imposing a total limit of absences, excused or unexcused, for the reasons you raised (with any exceptions required by law as indicated in section 2-61(a)(4) of the City Code). This is also a reason why I have proposed having the Commission appoint alternates to some boards.
- (2) The City Manager presently has the authority to remove board members for "excessive absences" under section 2-61 of the City Code. Typically, this does not include "excused absences," except that there is a total limit (both excused and unexcused) of three absences in a twelve month period for boards that meet less than once a month (section 2-61(2)).
- (3) The board or committee at issue is provided the authority to grant "excused" absences under section 2-61(b). Accordingly, you could also raise the issue with the board and ask them to give more scrutiny to requests for excused absences. Section 2-61(b) defines the following as "excused absences": "being out of town, due to illness, jury duty or absences approved by the board or committee." You could recommend that the board exercise its discretion to limit excused absences to the three specific reasons listed (being out of town, due to illness, and jury duty), and only approve other absences where another good reason is provided. Please note, there is a yearly limit of three unexcused absences for boards that meet once a month, and five unexcused absences for boards that meet more than once a month (section 2-61(a)(1) and (3)). Once again, the City Manager has the authority to remove board members who violate those limits.

- (4) Alternatively, the matter could be brought to the attention of the nominating official (typically the Mayor, Commissioner, or City Manager), who could nominate someone new, and thereby remove the board member. Of course, the Commission would have to approve the removal and renomination since only the Commission can remove a board member whose term has not expired (section 2-58(e)), unless the board member is removed for excessive absences under section 2-61.

This opinion and interpretation is issued pursuant to section 2-201(e)(1) and (8) of the City Code.

From: [Leen, Craig](#)
To: [Paulk, Enga](#)
Cc: [Ramos, Miriam](#); [Figueroa, Yanneris](#); [Chen, Brigitte](#)
Subject: FW: Board Member absences
Date: Wednesday, October 28, 2015 6:48:09 PM
Attachments: [image001.png](#)
[image002.png](#)

Please publish.

Craig E. Leen, City Attorney

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Celebrating 90 years of a dream realized.

From: Leen, Craig
Sent: Wednesday, October 28, 2015 6:47 PM
To: Betancourt, Javier; Foeman, Walter
Cc: Ramos, Miriam; Figueroa, Yanneris
Subject: RE: Board Member absences

Good evening, Javier,

I have the following responses to your question regarding board member absences:

- (1) It may be worthwhile to request that the Commission consider imposing a total limit of absences, excused or unexcused, for the reasons you raised (with any exceptions required by law as indicated in section 2-61(a)(4) of the City Code). This is also a reason why I have proposed having the Commission appoint alternates to some boards.
- (2) The City Manager presently has the authority to remove board members for “excessive absences” under section 2-61 of the City Code. Typically, this does not include “excused absences,” except that there is a total limit (both excused and unexcused) of three absences in a twelve month period for boards that meet less than once a month (section 2-61(2)).

- (3) The board or committee at issue is provided the authority to grant “excused” absences under section 2-61(b). Accordingly, you could also raise the issue with the board and ask them to give more scrutiny to requests for excused absences. Section 2-61(b) defines the following as “excused absences”: “being out of town, due to illness, jury duty or absences approved by the board or committee.” You could recommend that the board exercise its discretion to limit excused absences to the three specific reasons listed (being out of town, due to illness, and jury duty), and only approve other absences where another good reason is provided. Please note, there is a yearly limit of three unexcused absences for boards that meet once a month, and five unexcused absences for boards that meet more than once a month (section 2-61(a)(1) and (3)). Once again, the City Manager has the authority to remove board members who violate those limits.

- (4) Alternatively, the matter could be brought to the attention of the nominating official (typically the Mayor, Commissioner, or City Manager), who could nominate someone new, and thereby remove the board member. Of course, the Commission would have to approve the removal and renomination since only the Commission can remove a board member whose term has not expired (section 2-58(e)), unless the board member is removed for excessive absences under section 2-61.

Please let me know if you would like to further discuss. This opinion and interpretation is issued pursuant to section 2-201(e)(1) and (8) of the City Code.

Craig E. Leen, City Attorney

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From: Betancourt, Javier
Sent: Tuesday, October 06, 2015 8:49 AM
To: Leen, Craig; Foeman, Walter
Subject: Board Member absences

Walter/Craig,

Per the discussion at yesterday's Staff Meeting, we could use some guidance/assistance in resolving an issue with one of our Board members. Mr. McGregor previously served on the Property Advisory Board, where he missed 7 out of 14 meetings, and has thus far missed all 4 meetings of the Economic Development Board since his appointment. All absences were "excused" as far as I know, but his frequent absences place undue pressure on our ability to reach quorum, and are generally not helpful towards achieving the Boards' objectives.

I would appreciate your advice on how we should handle this particular situation, and also whether it may make sense to revise the Code to limit the number of excused absences for all Advisory Boards.

Thanks,
Javier

Javier A. Betancourt, AICP, Director
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305.460.5311



Celebrating 90 years of a dream realized.

From: Casuso, Jorge
Sent: Monday, October 05, 2015 1:24 PM
To: Betancourt, Javier
Cc: Roberts, Leonard
Subject: board member

Hello Javier,

Here is the attendance record you requested for EDB Board member Stuart McGregor:

Since January 2014, Mr. McGregor attended 7 meetings and was excused 7 times

Mr. McGregor has been excused from the 3 meetings held since he joined the EDB in June of this year, and he has asked to be excused from the Wednesday's meeting.

Jorge

Jorge Casuso
Business Development Analyst
Economic and Cultural Development
City of Coral Gables
305.461.2216



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