



To: Mayor and Commissioners

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

RE: Legal Opinion Regarding City Prosecutor

Date: September 26, 2016

During the August 23, 2016 City Commission meeting the City Attorney announced naming of the Deputy City Attorney as City Prosecutor. Pursuant to Sec. 2-201(e)(3) of the City Code, the City Attorney has the authority to prosecute for and on behalf of the City and pursuant to Sec. 2-201(d) the City Attorney may delegate authority to the Deputy City Attorney. Accordingly, the City Attorney delegates authority to prosecute on behalf of the City to the City Prosecutor.

Currently, the Deputy City Attorney/City Prosecutor serves as Code Enforcement Prosecutor and will also be prosecuting municipal ordinance violations. In addition to those duties, as City Prosecutor she will also be the primary liaison to the United States Attorney's Office, State Attorney's Office and Miami-Dade Ethics Commission. As liaison to the State Attorney's Office, the Deputy City Attorney/City Prosecutor will oversee the Justice Advocate Program, handled by the City's Police Legal Advisors.

When exercising prosecutorial function in the role of City Prosecutor, the Deputy City Attorney is entitled to absolute immunity. *See Redlich v. Leen*, No. 16-CIV-20001, 2016 WL 3670575, at *5 (S.D. Fla. May 20, 2016) (report and recommendation stating that City's special counsel "entitled to absolute immunity" when performing "hired role as a prosecutor on behalf of the City of Coral Gables."). Additionally, all prosecutors enjoy broad discretion which includes the power to select the charges brought in a particular case. *See Ball v. U.S.*, 470 U.S. 856, 859 (1985). As such, the City Prosecutor has the discretion to dismiss a case if she finds it to be legally insufficient or settle a case if she deems it to be in the best interest of the City, pursuant to Sec. 2-201(e)(6) of the City Code and Sec. 2-702 of the Zoning Code. With particularity, Sec. 101-190(c) of the City Code authorizes the city attorney to enter into settlement and fine reduction agreements in code enforcement matters.

As with all other delegations, in matters of prosecution, the City Attorney maintains concurrent authority to prosecute as well as supervise the City Prosecutor. This opinion is issued pursuant to Sections 2-201(e)(1) and (8) of the City Code.

From: [Leen, Craig](#)
To: [Paulk, Enga](#)
Cc: [Ramos, Miriam](#)
Subject: City Prosecutor Opinion
Date: Sunday, September 25, 2016 12:38:58 AM
Attachments: [City Prosecutor Opinion.docx](#)
[image001.png](#)

Enga,

Please publish the attached opinion regarding the role of City Prosecutor.

Craig E. Leen, City Attorney

*Board Certified by the Florida Bar in
City, County and Local Government Law*

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CITY ATTORNEY'S OFFICE

OPINION REGARDING CITY PROSECUTOR

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