



To: Carmen Olazabal, Jane Tompkins, Ramon Trias

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

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

RE: Legal Opinion Regarding Publication Requirement

Date: March 10, 2015

You have asked me for when the due date is for publication of the first reading relating to a development agreement under the Zoning Code. In particular, you have asked for my opinion as to the Mediterranean Village project and the request to consider the development agreement at the Wednesday, March 25th Commission meeting. This opinion and interpretation is provided pursuant to section 2-201(e)(1) and (8) of the City Code, as well as section 2-702 of the Zoning Code, and relates solely to the due date as provided for development agreements in the Zoning Code. According to the Zoning Code, the publication requirement is 7 days for the first reading of the development agreement (see section 3-302(8) of the Zoning Code along with the table in section 3-302) . The time period is calculated under section 1-109(P) of the Zoning Code, which states: "The time within which an act is to be done shall be computed by excluding the first and including the last day; if the last day is a Saturday, Sunday or a legal holiday, that day shall be excluded." In calculating a 7 day time period, calendar days are used unless the rules of construction state otherwise (which is not the case under subsection (P) unless the last day is on a weekend or legal holiday). Here, the last day is on Wednesday, March 25, the date of the Commission meeting. Seven days before that date is Wednesday, March 18. To double check in calculating 7 days from March 18 (to ensure adequate notice is given), the 18th is excluded, but the 19th, 20th, 21st, 22nd, 23rd, 24th, and 25th are included, which equals seven days (the 25th is included because the rule of construction expressly says to include the last day). If done the opposite way, from the 25th, the seventh day would be the 18th. Either way, the due date is the 18th. Please let me know if the practice in Development Services has been to calculate dates differently, which we should then discuss. Otherwise, you should proceed in the future in accordance with this opinion.

Thus the publication notice for the development agreement would need to be published at latest on March 18th. Walter has informed me that the advertisement would be due for the Daily Business Review at 10am on the day before, which is March 17th. In an abundance of caution, I would recommend providing the advertisement on March 16th at 10am for advertisement on Tuesday, March 17th. Please let me know if you have any further questions.

Finally, this opinion does not change the statement in section 3-302(A)(9) that the “[f]ailure to provide advertised notice as set forth in the foregoing notice requirements shall not affect any action or proceedings taken under this section, unless such notice is required by Florida Statutes.”

Herbello, Stephanie

From: Leen, Craig
Sent: Tuesday, March 10, 2015 6:20 PM
To: Herbello, Stephanie
Cc: Figueroa, Yaneris; Chen, Brigitte
Subject: FW: Publication Requirement

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
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Email: cleen@coralgables.com

From: Leen, Craig
Sent: Tuesday, March 10, 2015 6:20 PM
To: Olazabal, Carmen; Tompkins, Jane; Trias, Ramon
Cc: Foeman, Walter
Subject: Publication Requirement

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