



To: Miriam S. Ramos; Naomi Levi

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

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

RE: Legal Opinion Regarding Trailers in Kings Bay

Date: October 13, 2016

The attached legal memorandum is adopted as a City Attorney Opinion pursuant to section 2-201(e)(1) and (8) of the City Code, as well as section 2-702 of the Zoning Code. I would note that it is consistent with the directive in section 1-108(c) of the Coral Gables Zoning Code related to site specifics and established standards, as well as interpretations provided in CAO 2012-002 and CAO 2013-033. Based on this opinion, trailers are lawfully permitted in Kings Bay pursuant to the provisions in the Miami-Dade County Code that are incorporated into the City Code based on the site specifics and section 1-108(C).

As similar code enforcement issues arise relating to Kings Bay or other annexed areas, these situations should be presented to the City Attorney's Office for determination of the extent to which the County Code provides the rule of decision.

From: [Leen, Craig](#)
To: [Paulk, Enga](#)
Cc: [Ramos, Miriam](#); [Levi, Naomi](#)
Subject: FW: City Attorney Opinion Regarding Trailers in Kings Bay
Date: Thursday, October 13, 2016 11:58:36 AM
Attachments: [image001.png](#)
[Code Enforcement Opinion Re Kings Bay.pdf](#)

Enga, please publish.

Craig E. Leen, City Attorney

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CORAL GABLES
THE CITY BEAUTIFUL

Celebrating 90 years of a dream realized.

From: Leen, Craig
Sent: Thursday, October 13, 2016 11:58 AM
To: Ramos, Miriam
Cc: Levi, Naomi
Subject: City Attorney Opinion Regarding Trailers in Kings Bay

City Attorney Opinion

The attached legal memorandum is adopted as a City Attorney Opinion pursuant to section 2-201(e) (1) and (8) of the City Code, as well as section 2-702 of the Zoning Code. I would note that it is consistent with the directive in section 1-108(c) of the Coral Gables Zoning Code related to site specifics and established standards, as well as interpretations provided in CAO 2012-002 and CAO 2013-033. Based on this opinion, trailers are lawfully permitted in Kings Bay pursuant to the provisions in the Miami-Dade County Code that are incorporated into the City Code based on the site specifics and section 1-108(C).

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MEMORANDUM

To: Craig E. Leen, City Attorney

From: Naomi Levi Garcia, Esq., Special Counsel

Re: Trailers in Kings Bay

Date: 10/10/16

I have been asked to research whether trailers, such as boat trailers and RV trailers, are permitted on residential property in the gated community of Kings Bay.¹ The Coral Gables Zoning Code and Resolution No. 28970, both of which apply to Kings Bay, express the Commission’s legislative intent to treat the community distinctively from other property within the City and allow for the “grandfathering” of certain preexisting conditions or features through Site-Specific Standards. Based on the abovementioned legislation and the City’s course of action thus far, the City should allow trailers in Kings Bay pursuant to the Miami-Dade County Zoning Code.

I. **SECTION A-63-2 OF THE CORAL GABLES ZONING CODE, WHICH ALLOWS PREEXISTING CONDITIONS TO BE “GRANDFATHERED” IN KINGS BAY, INDICATES THE COMMISSION’S INTENT TO TREAT KINGS BAY DISTINCTIVELY FROM OTHER PROPERTY WITHIN THE CITY AND ESTABLISHES THE COUNTY ZONING CODE AS A CONTROLLING BODY OF LAW**

Zoning Code Section A-63-2 entitled “Kings Bay”, codifies the Code Compliance Agreement entered into upon annexation by the City of Coral Gables and the Kings Bay community. This Code section establishes Site Specific Standards² for Kings Bay by “grandfathering” certain conditions or features that would normally be precluded by the City Zoning Code if those features were allowable under Miami Dade County’s Zoning Code at the time of annexation. City of Coral Gables, Fla., Zoning Code §A-63-2; City of Coral Gables, Fla., Zoning Code §1-108 (C).

Section A-63-2 states in pertinent part:

1. All construction prior to annexation which has been properly permitted by Miami-Dade County will be allowed to continue as is.
2. Any construction prior to annexation allowed by the Miami-Dade County Code, which did not require a permit, will be allowed to continue as is.
3. If it is determined at a future date that construction prior to annexation was built without the proper and required permits from Miami-Dade County, that construction element cannot be

¹ The City of Coral Gables annexed Kings Bay on October 1, 2003.

² Site Specific Standards apply to properties which are subject to prior governmental approvals which have established standards which deviate from the basic standards in [the Zoning Code]. In the event the Site Specific Standards and [the Zoning Code] conflict, the Site Specific Standards shall control except if granted Coral Gables Mediterranean Style Design Standards bonuses...

allowed to continue as is, and the property owner shall be required to apply for an after-the fact permit from Coral Gables.

4. Compliance is required with all City and zoning regulations for all new construction, additions or remodeling initiated after annexation as included herein.

5. For the purpose of this section, the date of annexation shall be October 1, 2003, which is the service date that services were transferred from Miami-Dade County to the City. *Id.*

Section A-63-2 of the Zoning Code, which is specific to Kings Bay, should be given greater weight than more general provisions of the Code. *RadLAX Gateway Hotel, LLC v. Amalgamated Bank*, 132 S. Ct. 2065 (2012) (holding that general provision allowing for sale of encumbered assets of Chapter 11 debtors, free and clear of all liens, had to satisfy requirements set forth in statutory clause specifically dealing with such “sales” based on canon of statutory construction stating that the specific governs the general) *See also* City of Coral Gables, Fla., Zoning Code §1-108 (C). As with all canons of construction, this rule is not absolute, but is merely a strong indication of statutory meaning that can be overcome by textual indications pointing in the other direction. *Id.*

The rule of statutory construction that the specific governs the general is especially appropriate in situations where a governing body has enacted a comprehensive scheme and has also deliberately targeted specific problems with specific solutions. *Id.*

In this case, the City Commission has in place a comprehensive Zoning Code and has also created Site-Specific Standards for Kings Bay. Logically, this indicates that the Commission intended to treat Kings Bay distinctively from other properties within the City. Kings Bay is only discussed in Section A-63-2 of the Zoning Code and no textual indications exist to suggest that the Commission intended for trailers (in Kings Bay) to be governed by code provisions other than those specific to said community. This interpretation of the Commission’s legislative intent is further buttressed by a reading of Resolution No. 28970, discussed *infra*, which requires a lenient application of the Zoning Code in Kings Bay. City of Coral Gables, Fla., Resolution No. 28970.

The County Code should be treated as the controlling body of law for trailers in Kings Bay for two reasons, first, because Section A-63-2 only requires compliance with City zoning regulations for “new construction, additions or remodeling initiated after [October 1, 2003] and second, because the Zoning Code recognizes that certain properties are subject to “established standards which deviate from the basic standards in these regulations,” (emphasis added) and further states that these established standards should take precedence over more general standards in the Coral Gables Zoning Code. City of Coral Gables, Fla., Zoning Code §A-63-2; City of Coral Gables, Fla., Zoning Code §1-108 (C).

Failure to expressly require trailers to conform with the City Code, while expressly requiring compliance for activities such as construction (as is the case in Code Section A-63-2) can be interpreted as an intentional omission. *Moonlit Waters Apartments, Inc. v. Cauley*, 666 So. 2d 898, 900 (Fla. 1996) (holding that long-term ground lease for land upon which all improvements of cooperative apartment complex were constructed was not “lease of recreational or other commonly

used facilities,” within meaning of statute providing that such leases must contain option to purchase the leased property). Had the Commission intended for trailers to be strictly regulated under the City Zoning Code, for example, in the same way new construction is regulated, it would have clearly stated as much. City of Coral Gables, Fla., Zoning Code §A-63-2.

Furthermore, the City should take the legal position that the storage of trailers on residential property was the established standard for Kings Bay when it was annexed, and that such standard is effectively incorporated into the Site Specifics for Kings Bay in Appendix A, and that this would take precedence over the more general provisions of the Coral Gables Zoning Code. *Id.*; *City of Coral Gables, Fla., Zoning Code §1-108 (C)*. This analysis has been used in City Attorney Opinions concerning Site-Specific Regulations and is consistent with the way zoning issues have been resolved in other annexed communities, such as Hammock Lakes. *See* CAO 2012-002 and CAO 2013-033.

II. Resolution No. 28970 indicates the Commission’s intent to allow some flexibility in the application of the Zoning Code to Kings Bay

Resolution No. 28970 sets forth certain policies pertaining to code compliance in Kings Bay that suggest the Commission intended to take a lenient approach in enforcement and accommodate the residents of Kings Bay at the time of annexation. In addition to reiterating the terms of the Code Compliance Agreement, the Resolution states in pertinent part:

That the City of Coral Gables will not carry out a code compliance field check or examine the building permit records unless at some future date a complaint is received or it is necessary due to a review triggered by a remodeling or new construction permit application.

That the City of Coral Gables will allow a one-year grace period for all landscape elements which are not in compliance with the City's regulations, to be corrected; or in the alternative the City will allow for a procedure whereby the property owner can execute an indemnification document -assuming full responsibility for any incidents which might result from landscape elements not in compliance”. City of Coral Gables, Fla., Resolution No. 28970.

The spirit of Resolution No. 28970 is one of flexibility evidenced by assurances that field checks and permit record searches would not be conducted unless triggered. The resolution also grants a one year grace period to Kings Bay residents and creates procedures to apply for variances. The flexible enforcement encouraged by Resolution No. 28970 is further supported by anecdotal evidence from Kings Bay residents who claim they received verbal promises (during town hall meetings that preceded annexation) that certain existing features, such as trailers permitted by County Code, would continue to be allowed by the City.

In determining the extent to which trailers are allowed in Kings Bay, the City must look not just to the letter of the law but to the spirit of the law, as evidenced by the Commission’s intent at the time of annexation, and should give effect to the evident legislative intent, even if the result seems

contradictory to the strict letter of the statute; the spirit of the law prevails over the letter. *Garner v. Ward*, 251 So. 2d 252, 256 (Fla. 1971).

One might argue that a strict reading of Resolution No. 28970 in conjunction with general sections on the City Zoning Code does not provide Kings Bay residents with express permission to keep trailers on their property pursuant to the County Zoning Code; but such a reading would be inconsistent with the Commission's legislative intent and longstanding principles of statutory construction. Had the Commission intended to take a hardline approach to zoning and code enforcement issues they would not have created unique legislation, such as Resolution No. 28970, to govern Kings Bay in a distinct, and in some respects more lenient, manner. The spirit of the legislation is clear and should prevail over an unreasonably strict reading. *Id.*

CONCLUSION

There is a precedent for utilizing the County Code as the controlling body of law for zoning and code enforcement issues within Kings Bay, and given the current circumstances, it would be legally appropriate to allow trailers to remain in this community, in compliance with the County Code, rather than restrict them to the extent required by the City Code. This approach is supported by the Commission's expressed legislative intent and is consistent with the City's lenient approach thus far.

The County Code sets forth the following in regards to trailers:

Miami Dade County Code

Boat storage. Boats of less than thirty (30) feet in length, not more than one hundred and two (102) inches in width and thirteen (13) feet six (6) inches in height above grade, may be stored or temporarily parked in the RU, EU, AU and GU Zoning Districts on lots developed with a residential structure subject to the following conditions:

Sites with less than one-half (0.5) acre of lot area shall be permitted to store up to one (1) boat. The place of storage shall be to the rear of the front building line of the residential structure. Where the boat storage area is located between the residence and a side street property line, the boat shall be visually buffered by a minimum six-foot high privacy fence, masonry wall, or trees or shrubs maintained to a minimum height of six feet. The front building line referred to shall be that portion furthest from the street.

Sites containing a minimum of one-half (0.5) acre of lot area shall be permitted to store up to two (2) boats. Sites containing a minimum of five (5) acres of lot area shall be permitted to store up to three (3) boats. The place of storage shall be to the rear of the front building line of the residential structure, and such front building line shall be that portion furthest from the street. Where two or more boats are located on a site, the boat storage area shall meet the rear and side setback requirements for the principal structure and be visually buffered from the adjacent property and right-of-way by a minimum six-foot high privacy fence, masonry wall or trees or shrubs maintained to a minimum height of six feet, provided however, if a permit was approved for a five-foot high privacy fence or masonry wall prior to the effective date of this ordinance and thereafter constructed, such a fence or wall shall be acceptable in lieu of one that is six-feet high.

Up to two (2) personal watercrafts not exceeding five (5) feet in width by twelve (12) feet in length may be stored or parked in lieu of a boat authorized by this section. Such watercraft shall be visually buffered in accordance with Section 33-20(e)(2) or (3), as applicable.

Boats and place of storage or temporary parking shall be kept in a clean, neat and presentable condition.

No major repairs or overhaul work shall be made or performed on the premises.

The boats shall not be used for living or sleeping quarters, and shall be placed on and secured to a transporting trailer.

The temporary parking of a boat in front of the front building line or in front of the side street building line for no more than 2 hours in any 24-hour period, while the boat is hitched to an operable motor vehicle with a valid permanent license tag, for the purposes of loading and unloading equipment and supplies shall be permitted, but

under no circumstances shall a boat be parked in the public right-of-way, including the swale area of a right-of-way.

Commercial boat parking shall be prohibited. All boats stored on the property must be registered to the property owner or authorized residential tenant.

Recreational and camping equipment. Recreational and camping equipment in the form of travel and camping trailer, truck trailer and motor travel home, designed and used as temporary living quarters for recreation, camping or travel use may be parked in the open on sites containing a single-family or duplex residence, subject to the following conditions:

No more than one (1) such equipment shall be parked on such site.

Such parking shall be limited to such equipment owned or leased by the occupant-owner or occupant-lessee of the site concerned, or owned or leased by a bona fide out-of-Miami-Dade County house guest of the occupant-owner or occupant-lessee of the site concerned, with the parking of such equipment by guest not to exceed fourteen (14) days.

The location for such parked equipment shall be in the rear yard or in the side yard to the rear of a line established by the front building line furthest from the street and set back to at least the rear building line wherever possible, but in no event in front of such front building line. Such equipment shall be setback from side property lines at least a distance equivalent to the required side setback for the principal building and shall be set back from the rear property line at least ten (10) feet.

Such equipment and the area of parking shall be maintained in a clean, neat and presentable manner and the equipment shall be in a usable condition at all times.

Such equipment shall, at all times, have attached a current vehicle registration license plate.

No major repairs or overhaul work on such equipment shall be made or performed on the site, (or any other work performed thereon which would constitute a nuisance under existing ordinances).

When parked on the site, such equipment shall not be used for living or sleeping quarters, or for housekeeping or storage purposes and shall not have attached thereto any service connections lines, except as may periodically be required to maintain the equipment and appliances.

Such equipment shall not exceed the maximum length, width, height and weight permitted under applicable provisions of the motor vehicle laws of the State of Florida; provided, however, the maximum length shall not exceed thirty (30) feet and the maximum height shall not exceed ten (10) feet.

Such equipment shall be so secured so that it will not be a hazard or menace during high winds or hurricane.