



To: Glenn Larson and Steven Rodriguez

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 Dock PW-16-02-1956/1050 Lugo Ave.

Date: August 31, 2016

The City is continuing with the prior interpretation for your pending application based on past practice. That application may proceed through permitting. Please note, the City is continuing to review a potential revision to the more general interpretation going forward, which includes a review of the analysis in your memorandum, and will let you know its interpretation soon. This opinion and interpretation is issued pursuant to section 2-702 of the Zoning Code.

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

From: [Leen, Craig](#)
To: [Paulk, Enga](#)
Subject: FW: Bank and Bulkhead determination for waterfront properties
Date: Wednesday, August 31, 2016 4:06:22 PM
Attachments: [image001.png](#)

FYI.

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

Phone: (305) 460-5218

Fax: (305) 460-5264

Email: cleen@coralgables.com

From: Glenn Larson [mailto:glarson@dockandmarine.net]
Sent: Thursday, August 18, 2016 11:15 AM
To: Leen, Craig
Cc: Alyssa Larson; John Korvick; Rodriguez, Steven; Gonzalez, Elizabeth; Trias, Ramon; Silio, Antonio; Lago, Vince
Subject: Bank and Bulkhead determination for waterfront properties

Craig,

Thank you for the meeting last week, as per your request I present the following defense to continue to interpret the code as it has been, and possibly set a better definition in the code.

In recent projects the zoning team at the city of coral gables has revisited the definition of the bank for dock construction, I offer the following information to support the use of the seawall cap as the point of origin measurement for dock construction opposing the face of the seawall. There is information regarding history of marginal dock construction , The ACOE (Army Corps of Engineers) DEP state of Florida and other Cities in Dade county and Dade county Requirements.

Years ago in a meeting with Martha Sivila Leon, Irela Ferrer, and Elizabeth Hernandez it was determined that the face of the seawall cap would serve and the bank. The seawall cap at that meeting was termed bulkhead. The main topic of the meeting was intended on seeking a resolution to the wording in the code you are now again questioning. It was discussed that any person operating any type of water vessel be it kayak, or yacht could embark or disembark via bank (if the conditions allowed) but in the case of any seawall built to today's code with king piling and batter piling (knowing that king piling exist on most current seawalls in coral gables) a person operating a vessel would have to use the waterward face of the cap as you could not climb through the cap, and that if a ladder was mounted for access it would be on the face of the cap.

To support this, zoning researched a few older 5' docks that had been built in areas where there were similar seawalls, and found that historically the 5' docks measuring 5' from the face of the seawall cap were consistent with what was being built at that time. It was also concluded that the 5' marginal dock only needed to be scrutinized and reduced where there was a navigation problem or a conflict with the navigation rules set forth in the code. (at the point in time of the meeting I had several projects that mirrored on the opposing bank were very close to the 30' and 75' minimum unobstructed waterway requirement) The reason for this code review years ago and the conclusions that were arrived at have been in effect until present day. The rules in coral gables that protect navigation have always been a main concern in the zoning review process.

Over the years mother nature and father time have created a necessity for seawall repairs, as these repairs have evolved the environmental and city reviewers have always taken the waterward projection into consideration. The measurements accompanying a seawall repair that adjoins a marginal dock in areas that the measurement from the face of the cap vs the face of the seawall would make or break the 75' clear unobstructed waterway requirement (and 30' unobstructed waterway for the Maji Waterway) have always been held as the strictest measurement to abide by.

To further support the face of the seawall cap as the correct measurement to be used for the point of beginning of the dock. The Army Corps of Engineers had similar concerns years ago. They felt that through time, extensive repairs would be made to properties, and the properties would unintentionally grow, giving extensions to a property that could cause a navigation concern. It was determined that the definition of a bulkhead/ seawall was directed toward the retention and stabilization of property, and that in certain cases a seawall could be engineered as a landing but that special reinforcements or design considerations were to be made to accommodate a bulkhead that could act as a landing. (such as an area upland to safely allow for room to embark or disembark with gear for the intended voyage and construction using steel sheeting) It was also concluded that the close proximity of a vessel to a standard design seawall was likely to undermine the seawall and cause a short bulkhead life. The ACOE came up with a set of Dock construction guidelines. One of these guidelines includes a 5' wide marginal dock, and it was their determination that this 5' wide marginal dock was the minimum necessary for a vessel to safely dock, load and unload. Use of this guideline qualifies as an short form permit, there are no restrictions on seawall cap over water measurements so long as the engineering design seems consistent with what is necessary for the bulkhead construction in the area, these projects are reviewed on a case by case basis, and up to date in the coral gables area have all qualified for the ACOE short form or exemption.

The state of Florida, has no limitation on dock configuration or projection into the water, their concern is overall square footage, and environmental impact. However one of their requirements for new seawalls is the installation of coral rock boulders along the base of the wall as

mitigation. The requirement is one cy of boulders for each liner foot of seawall. These boulders in this quantity generally extend 8-10' past the face of the seawall (6-7 feet past the face of the cap) there is an alternate to pay some of the mitigation as a donation to the Biscayne Bay Environmental Enhancement Trust Fund if the required mitigation cannot fit on site. The state of Florida has in some cases counted a portion of the seawall cap as dock square feet if the cap has a projection over water that exceeds 24" from the face of the seawall. (keeping in mind that the State has square foot dock construction limitations. The State of Florida Sf simply states that there will be mitigation required for each square foot of dock that exceeds 500 square feet over water)

There are a half dozen Cities in Miami Dade County that substantial waterfront. The one thing that makes each city unique is its zoning code. All of the Cities have various codes relating to dock construction. Most of them use a percentage of the width of the waterway, with a maximum projection.

- Miami beach code states "measured from the seawall or property as shown by recorded plat" The measurement they use is the most waterward projection of the seawall, which protects the right of way)
- Golden beach code uses the property line as a point of reference for seawall and dock construction (which is strange as each neighbors survey shows the property line at a different location which causes problems with seawall construction, creating a very uneven waterway)
- City of Miami code has 10' max in canals with 30' max extension in the bay, measured from the face of the bulkhead (seawall cap is where they measure from) with an exception for the percentage of the width of the waterway
- North Miami code allows for a 7.5' into canals and 25' into the bay, their measurements are taken from an overhead plan view. They have certain restrictions for certain canal areas similar to your Maji waterway canal.

Miami Dade County DERM is an environmental agency, Their concerns lie with creating an area to dock a boat that will minimize any impacts to seagrasses, or marine life. Their water depth requirement and Rip rap boulder mitigation requirements have played a role in the gables waterway dock construction. They take every aspect of every project into the environments consideration and maintain strict regulations to confirm that the seawall cap requirements do not protrude over water any farther than necessary. They work hard to prevent intentional unnecessary property extension.

To summarize:

The measurement for a 5' marginal dock being taken from the face of the seawall cap is consistent with other Cities, the Coral Gables History of dock construction, and the environmental agencies. Dock construction has always been very scrutinized, and the permitting is growing ever more difficult. For the City of Coral Gables zoning department to make a change to the way that the code is interpreted after so many years in my opinion is unjust, and should only be validated by a meeting of the Commission. If this matter is to be presented to the commission, an opportunity for the marine contractors and waterfront homeowners to partake in defending the historic determination of the code.

I am a 3rd generation marine contractor, I have enjoyed designing and building docks specifically in the coral gables area due to the challenging conditions presented by the unique uplands. The zoning department has always done a very thorough job of protecting the interests of

the City and its Residences, setting very high standards for construction while protecting the interests of the neighbors. The dock structures that are built within Coral Gables by far exceed those built in any other City in both look and integrity. Changing the origin of measurement is not necessary. The zoning department should continue to review projects as they have, on a case by case basis, and only apply a restriction to the size of a dock, where that dock is going to be out of place or become offensive to the adjacent properties.

I look forward to discussing this with you in person, and would like to expedite my permit for 1050 Lugo ave. as soon as possible.

Respectfully,

Glen Larson
Dock and Marine Construction.

Glen Larson
Dock and Marine Construction
752 NE 79th Street
Miami, FL 33138
305-751-9911
www.dockandmarineconstruction.net

From: [Leen, Craig](#)
To: [Paulk, Enga](#)
Subject: FW: Dock PW-16-02-1956/1050 Lugo Ave.
Date: Tuesday, August 30, 2016 5:08:16 PM
Attachments: [image001.png](#)
[image002.png](#)

Please publish.

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
Phone: (305) 460-5218
Fax: (305) 460-5264
Email: cleen@coralgables.com



CORAL GABLES
THE CITY BEAUTIFUL

Celebrating 90 years of a dream realized.

From: Leen, Craig
Sent: Tuesday, August 30, 2016 5:08 PM
To: 'Glenn Larson'; Rodriguez, Steven
Cc: 'Josh Navarro'; Trias, Ramon; Ramos, Miriam; Suarez, Cristina; Throckmorton, Stephanie
Subject: RE: Dock PW-16-02-1956/1050 Lugo Ave.

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

Craig E. Leen, City Attorney

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Phone: (305) 460-5218
Fax: (305) 460-5264
Email: cleen@coralgables.com



Celebrating 90 years of a dream realized.

From: Leen, Craig
Sent: Tuesday, August 30, 2016 5:07 PM
To: 'Glenn Larson'; Rodriguez, Steven
Cc: 'Josh Navarro'; Trias, Ramon; Ramos, Miriam; Suarez, Cristina; Throckmorton, Stephanie
Subject: RE: Dock PW-16-02-1956/1050 Lugo Ave.
Importance: High

Glenn,

The City is continuing with the prior interpretation for your pending application based on past practice. **That application may proceed through permitting.** Please note, the City is continuing to review a potential revision to the more general interpretation going forward, which includes a review of the analysis in your memorandum, and will let you know its interpretation soon. This opinion and interpretation is issued pursuant to section 2-702 of the Zoning Code.

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Fax: (305) 460-5264
Email: cleen@coralgables.com



Celebrating 90 years of a dream realized.

From: Glenn Larson [mailto:glarson@dockandmarine.net]
Sent: Friday, August 26, 2016 11:29 AM
To: Rodriguez, Steven
Cc: 'Josh Navarro'; Leen, Craig
Subject: RE: Dock PW-16-02-1956/1050 Lugo Ave.

Steven,

I got a verbal that I understood as: we would get an approval on 1050. In addition Craig requested an argument on the code interpretation to make a solid definition of that reading of the code for future use. I provided that to him last week and have been awaiting his response. I have the plans in my possession and will bring them in once he gets a chance to review my letter.

Regards,
Glen

From: Rodriguez, Steven [mailto:srodriguez@coralgables.com]
Sent: Friday, August 26, 2016 11:21 AM
To: Glenn Larson <glarson@dockandmarine.net>
Cc: 'Josh Navarro' <JNavarro@reliancemw.com>
Subject: Dock PW-16-02-1956/1050 Lugo Ave.

Dear Glen,
Good Morning.

Per our last conversation regarding the dock work for 1050 Lugo/PW-16-02-1956, you were waiting on an opinion from the City Attorney, please let me know if you received it, and if so, please send me a copy.

Regards,
Steven Rodriguez
Zoning Planner
City of Coral Gables
427 Biltmore Way, 2nd Flr.
Coral Gables, FL 33134
T: 305-476-7216
www.coralgables.com



Please Note: Florida has a very broad Public Records Law. Most written communications to or from State and Local Officials regarding State or Local business are public records available to the public and media upon request. Your email communications may therefore be subject to public disclosure.