



To: Glenn Larson

From: Bridgette N. Thornton, Deputy City Attorney for the City of Coral Gables

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

RE: Legal Opinion Regarding Meyers Residence Biscayne Bay Or Gables Waterway

Date: June 21, 2013

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I met with the City Attorney and the Development Services Director this afternoon to discuss your proposal to shift the dock 10-15 feet as well as your argument that the City lacks jurisdiction over this proposed dock. This email will address each issue in turn.

**Proposal to Shift the Proposed Dock**

As to your proposal to shift the proposed dock 10-15 feet, it is the City's position, as mentioned in my June 7, 2013 email below, that such a proposal and any necessary plans reflecting this new proposal should first be submitted to City Staff for review before being presented on appeal to the City Commission. Indeed, City Staff may find this new proposal to meet the requirements of the Zoning Code and, thereby, negate any need for an appeal. Additionally, because this new proposal has not been submitted to City Staff it is the City's position that it is not ripe for appeal. As a result, if you choose to proceed with an appeal to the City Commission in which you raise this new proposal, then the City may argue that such an argument was not presented to City Staff or the Board of Adjustment and therefore is not an appropriate basis for an appeal. This could result in this matter being returned to City Staff for review and consideration of your new plans and, as a result, cause further delays for Mr. Meyers. Nonetheless, please advise as to whether Mr. Meyers still plans to proceed.

**Jurisdiction Over the Biscayne Bay Waterway**

In relation to your argument that the State of Florida has exclusive jurisdiction over Biscayne Bay, the City disagrees. More specifically, it is the City's position that the City of Coral Gables still has zoning jurisdiction as well as general police power over the residences and docks, etc., along the waterway; as a consequence, the City's view is that Mr. Meyers, as well as the other residents along Biscayne Bay, must comply with both State law and the City of Coral Gables' Zoning and Municipal Codes.

## Hernandez, Cristina

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**From:** Thornton Richard, Bridgette  
**Sent:** Friday, June 21, 2013 5:40 PM  
**To:** Hernandez, Cristina  
**Subject:** FW: 6988 Sunrise Drive Meyers Residence Biscayne Bay or Gables Waterway

Please add the below to the City Attorney Opinions folder.

Thanks!

Bridgette N. Thornton Richard  
Deputy City Attorney for the City of Coral Gables  
405 Biltmore Way, 2<sup>nd</sup> Floor  
Coral Gables, FL 33134  
Office: (305) 460-5084  
Cell: (305) 801-5797  
Fax: (305) 476-7795

**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.

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**From:** Thornton Richard, Bridgette  
**Sent:** Friday, June 21, 2013 5:36 PM  
**To:** 'Glenn Larson'  
**Cc:** Leen, Craig; Tompkins, Jane; Trias, Ramon; Hickman, Lina; Gonzalez, Elizabeth; Salazar-Blanco, Martha (msalazar-blanco@coralgables.com); Figueroa, Yaneris (yfigueroa@coralgables.com) (yfigueroa@coralgables.com); Franqui, Susan; Hernandez, Cristina  
**Subject:** 6988 Sunrise Drive Meyers Residence Biscayne Bay or Gables Waterway

Good Afternoon Mr. Larsen,

I met with the City Attorney and the Development Services Director this afternoon to discuss your proposal to shift the dock 10-15 feet as well as your argument that the City lacks jurisdiction over this proposed dock. This email will address each issue in turn.

### Proposal to Shift the Proposed Dock

As to your proposal to shift the proposed dock 10-15 feet, it is the City's position, as mentioned in my June 7, 2013 email below, that such a proposal and any necessary plans reflecting this new proposal should first be submitted to City Staff for review before being presented on appeal to the City Commission. Indeed, City Staff may find this new proposal to meet the requirements of the Zoning Code and, thereby, negate any need for an appeal. Additionally, because this new proposal has not been submitted to City Staff it is the City's position that it is not ripe for appeal. As a result, if you choose to proceed with an appeal to the City Commission in which you raise this new proposal, then the City may argue

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**Jurisdiction Over the Biscayne Bay Waterway**

In relation to your argument that the State of Florida has exclusive jurisdiction over Biscayne Bay, the City disagrees. More specifically, it is the City's position that the City of Coral Gables still has zoning jurisdiction as well as general police power over the residences and docks, etc., along the waterway; as a consequence, the City's view is that Mr. Meyers, as well as the other residents along Biscayne Bay, must comply with both State law and the City of Coral Gables' Zoning and Municipal Codes.

As stated above, please advise as to whether Mr. Meyers still plans to proceed with an appeal of the Board of Adjustment's decision. As always, if you have any questions or concerns, please do not hesitate to contact me.

Have a nice weekend,

Bridgette N. Thornton Richard  
Deputy City Attorney for the City of Coral Gables  
405 Biltmore Way, 2<sup>nd</sup> Floor  
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**From:** Thornton Richard, Bridgette  
**Sent:** Friday, June 07, 2013 10:12 AM  
**To:** 'Glenn Larson'  
**Cc:** Gonzalez, Elizabeth; Salazar-Blanco, Martha; Hickman, Lina; Leen, Craig; Franqui, Susan; Figueroa, Yaneris ([yfigueroa@coralgables.com](mailto:yfigueroa@coralgables.com)) ([yfigueroa@coralgables.com](mailto:yfigueroa@coralgables.com))  
**Subject:** RE: One last glint of hope for Meyers.

Glenn,

You can provide the City with an email from the State; however, it would be better if it was a letter on official State letterhead. Additionally, without knowing what the correspondence will state I cannot and will not address its potential merits. Please note, moreover, that if this is a new piece of evidence to support Mr. Meyers request, then it may need to be presented to the Department and the Board for consideration/evaluation before it can be considered as part of an appeal. Meaning, because it was not in the record presented to the Department and Board for the hearing it may not be properly exhausted for appellate purposes. Thus, once you secure the correspondence from the State, our Office will likely need to review it to determine the proper course of action. Please let me know if you have any questions or concerns.

Thank you,

Bridgette N. Thornton Richard  
Deputy City Attorney for the City of Coral Gables  
405 Biltmore Way, 2<sup>nd</sup> Floor  
Coral Gables, FL 33134  
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**From:** Glenn Larson [<mailto:GLarson@DockandMarine.net>]  
**Sent:** Friday, June 07, 2013 8:57 AM  
**To:** Salazar-Blanco, Martha; Thornton Richard, Bridgette; Hickman, Lina  
**Cc:** Gonzalez, Elizabeth  
**Subject:** RE: One last glint of hope for Meyers.

Bridgette, Lina, any ideas on the question below? Will an email from the state for land ownership work? The property located at 23 tahiti was governed on the basis that the job was located in Biscayne bay... The Meyers property is directly across from this property. I only have a few days to appeal my commission hearing. This would constitute a major change in the approach to obtaining Mr. Meyers new dock. Please advise ASAP,  
Glen

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**From:** Gonzalez, Elizabeth [<mailto:egonzalez@coralgables.com>]  
**Sent:** Monday, June 03, 2013 12:03 PM  
**To:** 'Glenn Larson'  
**Cc:** Salazar-Blanco, Martha; Thornton Richard, Bridgette; Hickman, Lina  
**Subject:** RE: One last glint of hope for Meyers.

Glen:

I don't know the answer to your question. I am copying the Deputy City Attorney Bridgette Thornton Richard and Lina Hickman from Public Works. Perhaps they could help.

Liz

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**From:** Glenn Larson [<mailto:GLarson@DockandMarine.net>]  
**Sent:** Monday, June 03, 2013 11:50 AM  
**To:** Gonzalez, Elizabeth  
**Subject:** One last glint of hope for Meyers.

Liz,

Thank you for your guidance so far.... I have one last little chance....

The ACOE has told me that the determination of "Biscayne bay" vs "Gables waterway" is in the hands of the state. This is because the Biscayne Bay is considered a state water body and the only portion of that that has federal jurisdiction is the ICW. I did get a second verbal from FDEP (Florida Department of Environmental Protection) I have been directed to go to another department and am awaiting something in writing. My question to you is in making this determination will an email from the State of florida work?

I am revisiting this as another option, because when I saw the survey from the surveyor who took the water depths he listed the waterway as Biscayne bay. (this was also the case for the dock that was approved at 23 Tahiti) I called him to inquire as to why Biscayne bay, and he simply stated that the information that he found on the property indicated that it was bordering the bay and not the coral gables waterway.

Let me know your thoughts

Regards,

Glen

Under Florida Law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.