



To: Jane Tompkins; Ramon Trias

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 name "Craig E. Leen".

RE: Legal Opinion Regarding Maximum Gross Floor Area Permitted In Site's Zoning

Date: February 7, 2014

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I have been asked to interpret the provisions governing the transfer of unused development rights from local historic landmarks to other properties located in the Central Business District (CBD). This matter is governed by Division 10 of Article 3 of the Zoning Code, and works as follows. The existing development on the site of the historic landmark, referred to as the sending site in the Zoning Code, is calculated, and compared with the hypothetical development rights available if the landmark were not present and the property was instead built out to the maximum extent permitted by the Zoning Code. The difference between these two numbers establishes the amount of development rights that can be transferred to enhance the development rights of a receiving site in the CBD.

In calculating the maximum hypothetical development rights under the Zoning Code, section 3-1004 states that this calculation is based on "the difference between the existing gross floor area on the property and the maximum floor area permitted on the property by the applicable zoning district." (emphasis added). The "calculation of unused development rights" required by subsection 3-1004.8.3. is defined in Article 8 of the Zoning Code as "the formula used to determine the maximum amount of underdeveloped floor area that may be transferred from a designated historic property. That figure is determined by calculating the difference between the existing gross floor area in the designated structure (sending site) and the maximum gross floor area permitted in that site's zoning designation." (emphasis added).

Nearly all property in the CBD is zoned Commercial. A sending site that is zoned Commercial is permitted two allocations of floor area ratio by the Zoning Code: 3.0 FAR by right (Section 4-302.D.4.), and 3.5 FAR if Level 2 Mediterranean design bonuses are approved for the property (Section 5-604.C. and D.).

Accordingly, for applications going forward, I conclude that the "maximum gross floor area permitted in that site's zoning designation" for a sending site includes both the FAR allowed as of right as well as the additional FAR available as level 2 Mediterranean design bonuses. Using the example of a Commercially zoned sending site, the maximum would be 3.5. This interpretation is limited to the conclusions stated herein.

## Hernandez, Cristina

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**From:** Leen, Craig  
**Sent:** Friday, February 07, 2014 4:09 PM  
**To:** Hernandez, Cristina  
**Cc:** Thornton, Bridgette; Figueroa, Yaneris  
**Subject:** FW: City Attorney Interpretation

Please place in the opinion folder.

Craig E. Leen  
City Attorney

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**From:** Leen, Craig  
**Sent:** Friday, February 07, 2014 4:08 PM  
**To:** Tompkins, Jane; Trias, Ramon  
**Cc:** 'Susan L. Trevarthen'  
**Subject:** City Attorney Interpretation

### CITY ATTORNEY INTERPRETATION

I have been asked to interpret the provisions governing the transfer of unused development rights from local historic landmarks to other properties located in the Central Business District (CBD). This matter is governed by Division 10 of Article 3 of the Zoning Code, and works as follows. The existing development on the site of the historic landmark, referred to as the sending site in the Zoning Code, is calculated, and compared with the hypothetical development rights available if the landmark were not present and the property was instead built out to the maximum extent permitted by the Zoning Code. The difference between these two numbers establishes the amount of development rights that can be transferred to enhance the development rights of a receiving site in the CBD.

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Craig E. Leen  
City Attorney  
City of Coral Gables

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