To: Susan L. Trevarthen; Charles Wu

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

RE: Legal Opinion Regarding City Of Coral Gables Enforce Miami-Dade County Code

Date: October 29, 2014

I have generally given interpretations in this area that authorize the City to enforce the County Code as a minimum standard, while respecting the City's prosecutorial and interpretive discretion when the City does so. Ultimately, Article 6 of the County Charter does grant the City authority to have a higher standard of zoning and services (and in my view this authority cannot be abrogated by County ordinance, only by a Charter amendment). I agree with you that the City has authority to enforce the County Code on the points below.

From:	Leen, Craig
Sent:	Wednesday, October 29, 2014 3:10 PM
To:	Parramore, Carol
Subject:	FW: Tree mitigation inquiry

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

From: Leen, Craig
Sent: Wednesday, October 29, 2014 3:09 PM
To: 'Susan L. Trevarthen'; Wu, Charles
Cc: Tompkins, Jane; Elisa N. Bramble
Subject: RE: Tree mitigation inquiry

Thank you, Susan. This is very helpful. I have generally given interpretations in this area that authorize the City to enforce the County Code as a minimum standard, while respecting the City's prosecutorial and interpretive discretion when the City does so. Ultimately, Article 6 of the County Charter does grant the City authority to have a higher standard of zoning and services (and in my view this authority cannot be abrogated by County ordinance, only by a Charter amendment). I agree with you that the City has authority to enforce the County Code on the points below.

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From: Susan L. Trevarthen [mailto:STrevarthen@wsh-law.com]
Sent: Wednesday, October 29, 2014 1:44 PM
To: Wu, Charles
Cc: Tompkins, Jane; Leen, Craig; Elisa N. Bramble
Subject: Tree mitigation inquiry

You asked us whether, in absence of an specific provisions in the City's Code of Ordinances regarding tree mitigation or payments in lieu, the City may utilize or enforce provisions of the Miami-Dade County Code on this subject matter. The short answer to this question is yes. Chapter 24 of the County Code establishes, among other environmental protection

programs, a Tree and Forest Program for the purpose of protecting, preserving and replacing certain trees. With respect to this program, Sec. 24-2, County Code ("Declaration of legislative intent"), provides in pertinent part:

> *This program shall be a **minimum standard and shall apply to both the incorporated** and unincorporated **areas**, and in the unincorporated areas shall be enforced by the Department of Environmental Resources Management, **and in the incorporated areas shall be enforced by the municipalities, unless the County is notified by a municipality**, in the form of a letter from an official of the municipality or by resolution, that the municipality desires the County to enforce the Miami-Dade County Tree and Forest Program within the municipality. Any municipality may establish and enforce its own ordinance provided such ordinance is equivalent to or more stringent than the provisions of Ordinance Number 89-8.*

Similarly, Sec. 24-49(2), which specifically regarding permits for tree removal and relocation, provides that "No **municipal** or County **official shall issue a tree removal permit that does not comply with the provisions of this section...**" Thus, under these provisions, the City <u>must</u> apply the applicable provisions of Chapter 24 of the County Code, including the provisions on tree preservation and protection in Division 2 of this chapter.

Please advise if you need anything further or would like to discuss this matter. Thanks.

From: "Wu, Charles" <cwu@coralgables.com>
Date: October 16, 2014 at 8:55:41 AM EDT
To: "'Susan L. Trevarthen'" <STrevarthen@wsh-law.com>
Subject: tree protection

Hi Susan.

I remembered last year when you helped us draft a letter to the resident on the Lisbon tree issue, that you said the county code on tree protection prevails if our code does not cover certain items. Our code does not have tree litigation specifics or payment in lieu of. Can we use the county code for those issues?

Thanks.

charles

Susan Trevarthen

Member, Board Certified in City, County and Local Government Law

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