



To: Virginia Goizueta

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 Determination of City Code regarding "Gutters"

Date: January 27, 2015

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I have reviewed section 58-89. The general rule of construction is that when there is a list, the words should be interpreted in a consistent and like manner with the rest of the list. This principle has been referred to in legal decisions as *ejusdem generis* and *noscitur a sociis*. See generally *Dunham v. State*, 140 Fla. 754, 757-58 (Fla. 1939) ("Where an author makes use first of terms each evidently confined and limited to a particular class of a known species of things, and then after such specific enumeration subjoins a term of very extensive signification, this term, however general and comprehensive in its possible import, yet when thus used, embraces only things ejusdem generis; that is, of the same kind of species with those comprehended by the preceding limited and confined terms', and the opinion continued: 'The maxim is a mere specific application of the broader maxim 'noscitur a sociis,' which means that general and specific words which are capable of an analogous meaning being associated together take color from each other, so that the general words are restricted to a sense analogous to the less general.')(citation omitted).

Here, the two words next to "gutters" are "sidewalks" and "curbs." Based on these words, and the application of the Florida Supreme Court's analysis in *Dunham*, it is my opinion, pursuant to section 2-201(e)(1) and (8) of the City Code, that section 58-89 is focused on the street, sidewalk, and right-of-way area, and that the word "gutters" refers to street gutters, not rain gutters on the roof section of a residence or similar structure.

## Herbello, Stephanie

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**From:** Leen, Craig  
**Sent:** Tuesday, January 27, 2015 12:20 PM  
**To:** Chen, Brigitte; Herbello, Stephanie  
**Cc:** Thornton, Bridgette; Figueroa, Yaneris  
**Subject:** FW: Determination of the City Code

Please place in the opinion folder.

**Craig E. Leen, City Attorney**  
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**From:** Leen, Craig  
**Sent:** Tuesday, January 27, 2015 12:19 PM  
**To:** Goizueta, Virginia  
**Cc:** Ortiz, William; Quintana, Amparo  
**Subject:** RE: Determination of the City Code

Good afternoon, Virginia. I have reviewed section 58-89. The general rule of construction is that when there is a list, the words should be interpreted in a consistent and like manner with the rest of the list. This principle has been referred to in legal decisions as *ejusdem generis* and *noscitur a sociis*. See generally *Dunham v. State*, 140 Fla. 754, 757-58 (Fla. 1939) ("Where an author makes use first of terms each evidently confined and limited to a particular class of a known species of things, and then after such specific enumeration subjoins a term of very extensive signification, this term, however general and comprehensive in its possible import, yet when thus used, embraces only things *ejusdem generis*; that is, of the same kind of species with those comprehended by the preceding limited and confined terms', and the opinion continued: 'The maxim is a mere specific application of the broader maxim 'noscitur a sociis,' which means that general and specific words which are capable of an analogous meaning being associated together take color from each other, so that the general words are restricted to a sense analogous to the less general.'")(citation omitted).

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**Craig E. Leen, City Attorney**  
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**From:** Goizueta, Virginia

**Sent:** Tuesday, January 27, 2015 11:26 AM

**To:** Leen, Craig

**Cc:** Ortiz, William

**Subject:** Determination of the City Code

Creig,

Can you please render a determination as to City Code Sec 58-89 regarding the word "gutters" as it's been used in this section?

In our opinion this section talks about street gutters rather than rain gutters which are usually installed on a structure.

**Sec. 58-89. - Work required in new building construction and/or alterations exceeding 600 square feet in floor area.**

- (a) Sidewalks, curbs and/or gutters, shall be constructed, reconstructed or repaired when improved, altered or modified by the construction, reconstruction, renovation, remodel or parking facility exceeding \$15,000.00 in value, or when such building to be constructed exceeds 600 square feet in floor area, for which a building permit is required.
- (b) The public works director shall notify the applicant/qualifier for the building permit by curbs, and/or gutters adjacent to the lot or parcel to be improved, altered or modified, Sidewalks, curbs and gutters shall be constructed in accordance to public works department sidewalk, curb and/or gutter is uneven, cracked, broken or marred, these portions of the the applicant/qualifier.
- (c) The public works director is hereby directed to withhold or withdraw the certificate of sidewalk and gutter are properly constructed, reconstructed or repaired as provided in subsections (a) and (b).
- (d) The public works director is hereby authorized to approve deferment of construction and requirements of constructing, reconstructing or repairing the sidewalks, curbs and/or gutters if conditions of the terrain and the existing sidewalk, curb and/or gutter, immediately adjacent to the property owner furnished the city with a properly executed covenant to run with the land or pay the cost of constructing the sidewalk, curb and/or gutter construction when such construction is for public works.
- (e) If the property owner fails to construct, reconstruct or repair the sidewalks, curbs and/or gutters, the department, the director of public works shall notify the applicant in writing that the applicant shall construct sidewalks, curbs and/or gutters. If the sidewalk, curb and/or gutter are not constructed the director is authorized to cause the construction of the sidewalk, curb and/or gutter by either city or the applicant. The provisions of this Code. An accounting of the total cost of sidewalks, curbs and/or gutters shall be recorded in the public records and thereafter shall constitute a lien against the property for the construction cost, a ten percent fee for engineering services for the public works department.

*(Code 1958, § 28-25.1; Code 1991, § 22-55)*

Thank you for your assistance on this matter.

*Virginia Goizueta*  
*Building Service Coordinator*  
*City of Coral Gables*  
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