



To: Dona Spain

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

A handwritten signature in black ink, appearing to be "CL", is written over the "From:" line.

RE: Legal Opinion Regarding Coral Gables Congregational Church Sculpture

Date: March 23, 2015

Pursuant to section 2-201(e)(1) and (8) of the City Code, and section 2-702 of the Zoning Code, as well as Article 6 of the Zoning Code (related to legal non-conformities), it is my opinion that the placement of the bronze religious sculpture, referred to as the "Homeless Sleeping Jesus," in the proposed location at the historic church can be approved without a variance.

To begin, I would note that at their March 12, 2015 meeting, the Board of Architects granted preliminary approval for this sculpture, including its proposed location, as being aesthetically appropriate under the circumstances. In addition, I would note that the historic building is within the front setback and, accordingly, is legally non-conforming as to its setback under Article 6 of the Zoning Code. The proposed sculpture would be placed at an aesthetically appropriate location within the setback. It is also my understanding that there is no other location on this property that would be suitable for the sculpture and that would conform with the setback restrictions. Finally, the Zoning Code recognizes the ability to place fountains, reflecting pools, planters, and flagpoles between the front of a building and the right-of-way, even if within the setback. §§ 5-120, 5-121, and 5-122, Zoning Code. Although the sculpture is not a fountain or reflecting pool, I would note this provision as it recognizes the ability to place certain structures in the front setback, which will be further addressed below.

Based on the totality of the circumstances surrounding this proposed sculpture, and based on my interpretation of the Religious Land Use and Institutionalized Persons Act, and case law interpreting the First Amendment Free Exercise clause, it is my opinion that this express religious speech should be entitled to some particular deference and accommodation in order to avoid any potential substantial burden on the free exercise of religion. This is particularly true where the site has been determined to be appropriate by the Board of Architects, there is no other suitable location outside the setback, the building itself is legally non-conforming, and a fountain or planter could be placed in the same location. Accordingly, and consistent with my authority to enforce Article VI of the Zoning Code, I recommend that you allow this proposed location for the sculpture, and I recommend that a formal variance not be required. Please note, this opinion is being issued based on RLUIPA and Article 6 of the Zoning Code, as well as the totality of the circumstances presented. Any further application of these principles to other situations would require review by the City Attorney's Office.

Herbello, Stephanie

From: Leen, Craig
Sent: Monday, March 23, 2015 8:29 PM
To: Herbello, Stephanie
Cc: Ramos, Miriam; Figueroa, Yaneris; Chen, Brigitte
Subject: FW: Coral Gables Congregational Church sculpture

Stephanie,

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: Monday, March 23, 2015 8:28 PM
To: Spain, Dona
Cc: 'Abby Corbett'; Ramos, Miriam; Figueroa, Yaneris; Chen, Brigitte
Subject: RE: Coral Gables Congregational Church sculpture

City Attorney Opinion

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Craig E. Leen, City Attorney

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From: Leen, Craig
Sent: Monday, March 23, 2015 9:10 AM
To: Spain, Dona
Cc: Carlos Palmer; Megan Smith; Laurie Hafner; Ramos, Miriam; Abby Corbett
Subject: Re: Coral Gables Congregational Church sculpture

Yes, you may proceed to sign administratively. I will provide a written opinion with my analysis later this week.

Sent from my iPhone

On Mar 23, 2015, at 9:05 AM, Spain, Dona <dspain@coralgables.com> wrote:

I'm copying the City Attorney on this email – Craig, can you let us know what the next step is?

Are the drawings already submitted in the permit process? I know the Board of Architects approved it. I'm comfortable signing for it administratively. All I would need is a COA application. I attached one to this email.

Dona M. Spain
Historic Preservation Officer
City of Coral Gables, Florida
(305)460-5095

From: Carlos Palmer [<mailto:palmarc@bellsouth.net>]
Sent: Friday, March 20, 2015 5:50 PM
To: Spain, Dona
Cc: 'Megan Smith'; 'Laurie Hafner'
Subject: FW: Coral Gables Congregational Church sculpture

Hi Dona:
Pls let me know what the next steps are for this project pls.
Many thx and happy weekend

Carlos Palmer, AIA

www.cp-arc.com

<image001.jpg>

From: Carlos Palmer [<mailto:palmarc@bellsouth.net>]
Sent: Thursday, March 12, 2015 11:29 AM
To: 'dspain@coralgables.com'
Subject: Coral Gables Congregational Church sculpture

Hi Dona;
good to see you at the BoA this morning.
Just wanted to send you an email for your records, and so that you may let me know what other steps are necessary for the approval.

Many thanks,

Carlos Palmer, AIA
www.cp-arc.com
<image001.jpg>

<COAapp.pdf>