




To: Yaneris Figueroa, Miriam Ramos

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

RE: Legal Opinion Regarding Correcting Scrivener's Error

Date: July 20, 2015

Pursuant to the authority granted to the City Attorney to correct scrivener's errors in section 2-201(e)(9) of the City Code, and consistent with the opinion below that I adopt as my own, I hereby direct that the following correction be made to section 2-69(e)(1) of the City Code (adding the words "of its jurisdiction"):

"Any citizen shall be scheduled on the agenda of a regular meeting of the commission for presentation of information and material to be considered by the commission, within the scope of its jurisdiction, following the city manager's investigation and review of the citizen's issue, or unless otherwise directed by the mayor or a member of the commission."

The present sentence must be corrected because there is no language clarifying what "within the scope" means, even though such language is necessary so that the provision makes sense. It is clear that the intent was for the words "of its jurisdiction" to be present. First, the wording is legally required, as the right to speak under the Code cannot be narrower than the right to speak under the Citizens Bill of Rights (Miami-Dade County County Charter), which grants a right to the public to speak on matters within the government entity's jurisdiction. This Code provision implements the right to speak in the Citizens Bill of Rights, so it should be worded in a manner consistent with it. Second, the word scope is often associated with the word jurisdiction, and it makes sense that the public could speak on matters within the local government's jurisdiction, as those are the matters where the local government's authority could reach and effectuate.

Please inform the Municipal Code Corporation of this correction.

Herbello, Stephanie

From: Leen, Craig
Sent: Monday, July 20, 2015 10:05 AM
To: Herbello, Stephanie
Cc: Ramos, Miriam; Figueroa, Yanneris; Chen, Brigette
Subject: FW: Correcting Scrivener's Error

Importance: High

Please publish.

Craig E. Leen, City Attorney
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City, County and Local Government Law*
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FLORIDA 33134

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From: Leen, Craig
Sent: Monday, July 20, 2015 10:04 AM
To: Figueroa, Yanneris; Ramos, Miriam
Cc: Foeman, Walter; Chen, Brigette; Herbello, Stephanie
Subject: RE: Correcting Scrivener's Error
Importance: High

Mr. Clerk,

Pursuant to the authority granted to the City Attorney to correct scrivener's errors in section 2-201(e)(9) of the City Code, and consistent with the opinion below that I adopt as my own, I hereby direct that the following correction be made to section 2-69(e)(1) of the City Code (adding the words "of its jurisdiction"):

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jurisdiction” to be present. First, the wording is legally required, as the right to speak under the Code cannot be narrower than the right to speak under the Citizens Bill of Rights (Miami-Dade County County Charter), which grants a right to the public to speak on matters within the government entity’s jurisdiction. This Code provision implements the right to speak in the Citizens Bill of Rights, so it should be worded in a manner consistent with it. Second, the word scope is often associated with the word jurisdiction, and it makes sense that the public could speak on matters within the local government’s jurisdiction, as those are the matters where the local government’s authority could reach and effectuate.

Please inform the Municipal Code Corporation of this correction.

Craig E. Leen, City Attorney

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From: Figueroa, Yanneris
Sent: Friday, June 26, 2015 4:54 PM
To: Leen, Craig; Ramos, Miriam
Cc: Chen, Brigitte
Subject: Correcting Scrivener's Error

Good Afternoon Craig,

I reviewed Section 2-69(e)(1) of the City Code and it is my opinion that there is a scrivener’s error that should be corrected pursuant to your authority under City Code Section 2-201(e)(9). Presently, Section 2-69(e)(1) states that “[a]ny citizen shall be scheduled on the agenda of a regular meeting of the commission for presentation of information and material to be considered by the commission, within the scope, following the city manager’s investigation and review of the citizen’s issue, or unless otherwise directed by the mayor or a member of the commission.” In reviewing the Section, it becomes apparent that there is an omission after the phrase “within the scope.” Indeed, there is no direction or clarification as to what “the scope” refers to.

Direction as to the Section’s intent can be found in the Miami-Dade County Charter’s Citizens Bill of Rights. Section 2-69(e)(1) of the City Code deals with the public’s ability to appear before the City Commission. Similarly, Section A(5) of the County’s Citizen’s Bill of Right deals with a citizen’s “right to be heard.” The County provision states that “[s]o far as the orderly conduct of public business permits, any interested person has the right to appear before the Commission or any municipal council or any County or municipal agency, board or department for the presentation, adjustment or determination of an issue, request or controversy *within the jurisdiction of the governmental entity involved.*” It follows that the City, in an effort to provide orderly conduct for its Commission meetings, and in a similar manner as the County, would allow public appearances from individuals who have concerns related to an issue within the Commission’s jurisdiction. Moreover, the fact that Section 2-69(e)(1) states “within the scope” likely indicates the drafters’ intended to address when individuals would be allowed to make a public appearance.

For the reasons stated above, it is my opinion that the City's provision has an omission, which requires correcting. Accordingly, section 2-69(e)(1) should be corrected to read as follows: "Any citizen shall be scheduled on the agenda of a regular meeting of the commission for presentation of information and material to be considered by the commission, within the scope of its jurisdiction, following the city manager's investigation and review of the citizen's issue, or unless otherwise directed by the mayor or a member of the commission."

Best,

Yaneris Figueroa

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