



To: Peter A. Gonzalez

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

RE: Legal Opinion Regarding Filing of Appeal Form

Date: September 24, 2015

In response to this inquiry, I would refer you to my prior email, which indicates that my office treats the filing of the appellate fee waiver as the filing of a notice of appeal for purposes of the Zoning Code. It was clear at that moment of the intent to appeal, and a written document was filed evidencing that fact. A copy was provided to the Clerk's Office upon receipt, which occurred within the ten-day appeal period.

In my office's opinion, the appeal was perfected for purposes of jurisdiction at the moment the appellate fee waiver was filed. The document you are now objecting to is the form that was subsequently filed by the appellant after the appellate fee waiver was filed. The form is provided by the Clerk's Office to assist appellants in filing an appeal. My office would not know why the appellant filled out the form in any particular manner. There is no legal or jurisdictional requirement, however, obligating the appellant to physically fill out the checklist with checks. Instead, the checklist is meant to assist the appellant in proceeding with the appeal. I would also note that the appellant provided the substantive information requested on the first page, and that she also noted that she is proceeding with an appellate fee waiver.

The appellant will be informed of your objection and can determine for herself whether or not to file an amended form. This will not affect the City Commission's jurisdiction over the appeal. The City Commission will hear the appeal on its merits, and make the ultimate decision. Once again, your objection is noted for the record.

*This Opinion is being issued pursuant to sections 2-201(e)(1) and (8) of the City Code, as well as section 2-702 of the Zoning Code.

From: Leen, Craig
To: Paulk, Enga
Cc: Ramos, Miriam; Figueroa, Yaneris
Subject: Fwd: PonceCat Segovia LLC - Segovia Project
Date: Thursday, September 24, 2015 1:59:09 AM

Please publish on Thursday.

Sent from my iPhone

Begin forwarded message:

From: "Leen, Craig" <cleen@coralgables.com>
Date: September 24, 2015 at 1:57:11 AM EDT
To: "Peter A. Gonzalez" <pgonzalez@smgqlaw.com>
Cc: "Ramos, Miriam" <miramos@coralgables.com>, Laura Russo <laura@laurarussolaw.com>, "Roney J. Mateu" <rjm@mateuarchitecture.com>, "Foeman, Walter" <wfoeman@coralgables.com>, "Figueroa, Yaneris" <yfigueroa@coralgables.com>, "Davis, Yolande" <YDavis@coralgables.com>, "Wu, Charles" <cwu@coralgables.com>, Alberto Perez <ajp@ajpventures.com>
Subject: Re: PonceCat Segovia LLC - Segovia Project

This email is also being issued as a City Attorney Opinion pursuant to sections 2-201(e)(1) and (8) of the City Code, as well as section 2-702 of the Zoning Code.

Craig E. Leen
City Attorney

Sent from my iPhone

On Sep 24, 2015, at 1:35 AM, Leen, Craig <cleen@coralgables.com> wrote:

Good evening, Mr. Gonzalez,

In response to this inquiry, I would refer you to my prior email, which indicates that my office treats the filing of the appellate fee waiver as the filing of a notice of appeal for purposes of the Zoning Code. It was clear at that moment of the intent to appeal, and a written document was filed evidencing that fact. A copy was provided to the Clerk's Office upon receipt, which occurred within the ten day appeal period.

In my office's opinion, the appeal was perfected for purposes of jurisdiction at the moment the appellate fee waiver was filed. The document you are now objecting to is the form that was subsequently filed by the appellant after the appellate fee waiver was filed. The form is provided by the Clerk's Office to assist appellants in filing an

appeal. My office would not know why the appellant filled out the form in any particular manner. There is no legal or jurisdictional requirement, however, obligating the appellant to physically fill out the checklist with checks. Instead, the checklist is meant to assist the appellant in proceeding with the appeal. I would also note that the appellant provided the substantive information requested on the first page, and that she also noted that she is proceeding with an appellate fee waiver.

The appellant will be informed of your objection and can determine for herself whether or not to file an amended form. This will not affect the City Commission's jurisdiction over the appeal. The City Commission will hear the appeal on its merits, and make the ultimate decision. Once again, your objection is noted for the record.

Craig E. Leen
City Attorney

Sent from my iPhone

On Sep 24, 2015, at 12:04 AM, Peter A. Gonzalez
<pgonzalez@smgqlaw.com> wrote:

Dear Ms. Ramos,

Thank you for providing me with a copy of the Application for Appeal signed by Ms. Longo earlier today, September 23, 2015, well after the 10-day deadline to submit the appeal application form to the City Clerk.

Please explain to me why Ms. Longo's untimely Application for Appeal was accepted by the city when it is an incomplete form that has none of the boxes checked off under the section titled "**(FOR APPLICANT ONLY)**". In fact, the last item has two boxes, one box for **Yes** and a second box for **No** to determine whether the Application was submitted within the "**10 days deadline for filing appeal from a decision of the Board has been met**". Neither box was checked off. Why not?

Please advise.

Sincerely,

PETER A. GONZÁLEZ



SANCHEZ-MEDINA, GONZALEZ, QUESADA,
LAGE, CRESPO, GOMEZ, MACHADO & PREIRA LLP
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[Attorney Bio](#)

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From: Ramos, Miriam [<mailto:mramos@coralgables.com>]
Sent: Wednesday, September 23, 2015 3:58 PM
To: Peter A. Gonzalez
Cc: Laura Russo; Roney J. Mateu; Foeman, Walter; Leen, Craig; Figueroa, Yanneris; Davis, Yolande; Wu, Charles; Alberto Perez
Subject: RE: PonceCat Segovia LLC Segovia Project

Mr. Gonzalez,

As requested, please find form filed by Ms. Longo attached.

Sincerely,

Miriam S. Ramos, Esq.
Deputy City Attorney

City of Coral Gables
405 Biltmore Way, 3rd Floor
Coral Gables, FL 33134
(305) 460-5218
(305) 460-5084 direct dial



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From: Peter A. Gonzalez [mailto:pgonzalez@smgqlaw.com]
Sent: Wednesday, September 23, 2015 3: 11 PM
To: Ramos, Miriam
Cc: Laura Russo; Roney J. Mateu; Foeman, Walter; Leen, Craig; Figueroa, Yaneris; Davis, Yolande; Wu, Charles; Alberto Perez
Subject: RE: PonceCat Segovia LLC - Segovia Project

Dear Ms. Ramos,

Thank you for your email. Your email below confirms that the appellant failed to submit the “application for appeal” until today, September 23, 2015, well after the 10-day deadline. As acknowledged by you in your email below, this is a violation of the requirements to appeal the Board of

Architects decision to the Commission. Please let me know the basis for your office's belief that such violation may be cured and kindly provide me with a copy of whatever was filed untimely today which supposedly cured the violation.

The Application for Appeal which Maricris Longo failed to timely submit as required contains a section titled "**(FOR APPLICANT ONLY)**". It appears that Ms. Longo is not an "Applicant" since she did not even bother to submit the Application timely, but even if she had complied with the rules (and she did not), it also appears that she did not comply with the items enumerated under the "**(FOR APPLICANT ONLY)**" section. Please advise how is it that Ms. Longo may proceed with an appeal without having complied with all requirements set forth in the Application for Appeal which she did not even bother to submit within the 10-day time period.

I am troubled and disturbed that Ms. Longo, who purports to be objecting to the Board of Architect's decision purportedly because the Board failed to comply with Ms. Longo's warped view of "the rules" is then permitted to move forward with an untimely appeal without complying with all of the rules and requirements herself.

I look forward to receiving your response, and thank you for your attention to this matter.

PETER A. GONZÁLEZ



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From: Ramos, Miriam [<mailto:mrmos@coralgables.com>]
Sent: Wednesday, September 23, 2015 2:38 PM
To: Peter A. Gonzalez
Cc: Laura Russo; Roney J. Mateu; Foeman, Walter; Leen, Craig; Figueroa, Yaneris; Davis, Yolande; Wu, Charles
Subject: RE: PonceCat Segovia LLC - Segovia Project

Dear Mr. Gonzalez,

Attached please find the email thread reflecting that appellant filed the signatures required to waive the appeal fee on Sept. 18th, nine days after the hearing. While appellant failed to submit the "application for appeal" itself, this is a technical violation and one which we believe may be cured (and has been as of today), especially given the fact that appellant is a non-attorney. Therefore, this office opines that the 10-day deadline was adhered to.

As for the number of signatures, you will find in the attachment that there are actually 40 signatures. The attachment also reflects that we confirmed that the individuals who signed were within the 1,000 foot radius.

We found one individual was not, therefore there are either 39 or 38 signatures that were considered, depending on whether we count Ms. Longo's. As to the requirement to provide proof of financial hardship or burden, Section 3 of Resolution No. 2014-224 As Amended, states, that "a fee waiver will be available to all applicants who present to the City Attorney a petition requesting a fee waiver signed by thirty households within a thousand feet of the subject property." Said petition was submitted directly to our office on Sept. 18th. Regarding the submittal of the transcript, although typically done, is not required for Board of Architects appeals.

Based on the above, we opine that the appeal may proceed. This opinion is issued pursuant to Sec. 2-201(e)(1) and (8) of the City of Coral Gables Code giving the City Attorney's Office the authority to issue opinions and interpretations on behalf of the City.

Sincerely,

Miriam S. Ramos, Esq.

Deputy City Attorney
City of Coral Gables
405 Biltmore Way, 3rd Floor
Coral Gables, FL 33134
(305) 460-5218
(305) 460-5084 direct dial

<image005.png>

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From: Foeman, Walter
Sent: Wednesday, September 23, 2015 2:08 PM
To: Leen, Craig
Cc: Ramos, Miriam
Subject: FW: PonceCat Segovia LLC - Segovia Project

FYI,

From: Peter A. Gonzalez [mailto:pgonzalez@smgqlaw.com]
Sent: Wednesday, September 23, 2015 12:44 PM
To: City Clerk
Cc: Laura L. Russo Esq. (Laura@laurarussolaw.com); Alberto Perez; 'Roney Mateu' (rjm@mateuarchitecture.com)
Subject: RE: PonceCat Segovia LLC - Segovia Project

Dear Mr. Foeman:

As a follow up to my email below, attached please find a copy of what was supposedly provided to someone at the city by Maricris Longo. It appears that Ms. Longo may not have filed a notice of appeal with the city clerk within the 10-day deadline, as is required. Please advise.

Also, the attached does not indicate that the required appeal fee was timely paid. The attached appears to contain signatures designed to get away from paying the required fee to file an appeal, but there are only 24 signatures, one of which is Ms. Longo's own signature, so she only obtained 23 signatures, and not the minimum 30 required signatures. Moreover, the attached does not indicate any showing of proof of income below 200% of the national poverty level or

proof that paying the appeal fee would be a hardship or burden on Ms. Longo who owns multiple properties in Coral Gables. Furthermore, there is nothing on the attached to suggest that Ms. Longo submitted the transcript of the September 9, 2015 hearing or rendition letter from the Board of Architects, as required of the applicant for appeal.

There may be other fatal flaws and additional deficiencies which render the appeal moot or which would prohibit the city from allowing the so-called appeal from moving forward to the commission level. I will review this matter more carefully after I have received responses from you to my emails.

Thank you for your attention to this matter. I look forward to hearing from you.

PETER A. GONZÁLEZ



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From: Peter A. Gonzalez
Sent: Wednesday, September 23, 2015 12:35 PM
To: 'cityclerk@coralgables.com'
Cc: Laura L. Russo Esq. (Laura@laurarussolaw.com); Alberto Perez; 'Roney Mateu (rjm@mateuarchitecture.com)'
Subject: PonceCat Segovia LLC - Segovia Project
Importance: High

Dear Mr. Foeman:

I represent PonceCat Segovia LLC, the owner and developer of the Segovia project that was the subject of the Board of Architects lengthy hearing on September 9, 2015, which commenced at 3:30 p.m. and concluded at approximately 8:15 p.m.

I have been told that Maricris Longo supposedly filed an appeal of the Board's decision approving the Segovia project, but I have not seen any written verification which confirms that Ms. Longo timely filed any appeal of the Board of Architect's decision with the City Clerk's office.

Assuming a notice of appeal was timely filed with the city clerk within 10 days of September 9, 2015, then we will also need to confirm whether Ms. Longo timely paid the required fee for the appeal or, alternatively, whether she complied with the rules for waiver of such fee which requires no fewer than 30 signatures of Coral Gables residents residing within 1000 feet of the subject property and showing of proof of income below 200% of the national poverty level or proof that paying the appeal fee would be a hardship or burden on Ms. Longo who owns multiple properties in Coral Gables.

I have not seen anything to suggest that Ms. Longo also submitted the (a) transcript of the September 9, 2015 hearing; (b) receipt of request for mailing labels, and (c) rendition letter from the Board of Architects, as required of the applicant, as clearly stated in writing in the Application for Appeal issued by the Coral Gables City Clerk.

Kindly provide me with a true, correct and complete copy of any notice of appeal that Ms. Longo may have filed with the City Clerk, providing the date and time the same was filed, together with proof that all other requirements were timely met so that we may determine how to proceed in this matter. We intend to object to any so-called "appeal" moving forward if Ms. Longo failed to comply with all the rules and requirements for

filing and pursuing an appeal of decision rendered by the Board of Architects on September 9, 2015.

Ms. Longo offered no documentary evidence nor requested that any such evidence be admitted as part of the record during the September 9, 2015 Board of Architects hearing. The only documentary evidence offered and admitted during the September 9 hearing was provided for by the property owner/developer in favor of approval of the project, so I am unclear as to what may possibly be the proper basis for Ms. Longo's purported appeal. Indeed, the testimony offered by Ms. Longo and her partner Ernesto Fabre during the September 9 hearing confirmed that representations made to the city and to residents of the Coral Gables community to try to create opposition to my client's project were false, misleading and incomplete, and that many of the persons that supposedly signed a petition created by them were not even residents of Coral Gables.

In fact, if I recall Mr. Fabre's testimony on September 9 correctly, Mr. Fabre even had a relative in Colombia sign the petition he created opposing the Segovia project which marks the first time I have ever heard of someone try to use the signature of a non-US person residing in South America, thousands of miles away from Coral Gables, to manufacture opposition to a Coral Gables property owner's project that seeks approval as a matter of right and which is in full compliance with the applicable code. Such opposition is absurd, but that is the type of obstructionist, bad faith conduct that my client has been dealing with for months as a result of Ms. Longo's and Mr. Fabre's unsavory tactics.

I tried reaching you by telephone earlier today, and left a voicemail for you at the city clerk's office. I look forward to receiving a copy of whatever Ms. Longo may have filed with the city clerk by email, and all other information you and the city clerk's office may have that is responsive to my questions or requests above.

If you wish to speak regarding this matter, please call me at your convenience. Thank you for your attention to this matter.

Sincerely,

PETER A. GONZÁLEZ



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[Attorney Bio](#)

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<Application form to appeal - Segovia Project.pdf>