



To: Walter Foeman and Billy Urquia

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

RE: Legal Opinion Regarding Sections 201 and 202 of the City Charter

Date: January 6, 2016

Pursuant to sections 2-201(e)(1), (8), and (9) of the City Code, along with the Municipal Home Rule Powers Act and the attached City Attorney Opinion, it is my legal opinion on behalf of the City that sections 201 and 202 of the Related Laws section of the City Charter have been superseded by applicable law, and that any referendum requirement limiting the authority of the City Commission is clearly void under the Municipal Home Rule Powers Act. I would note that the City also has a general grant of power under the Municipal Home Rule Powers Act and section 7 of the City Charter that encompasses any municipal powers needed in relation to its ownership of the Biltmore Hotel.

Please inform the Municipal Code Corporation to delete sections 201 and 202 from the Related Laws section of the City Charter, and to place a note referencing this opinion.

CITY OF CORAL GABLES
CITY ATTORNEY'S OFFICE

M E M O R A N D U M

TO: Craig Leen, City Attorney
Miriam Ramos, Deputy City Attorney

FROM: Yaneris Figueroa, Assistant City Attorney

APPROVED: Craig E. Leen, City Attorney

RE: City Acquisition of Biltmore Property

DATE: January 6, 2016

You asked me to determine whether the City complied with Charter Sections 201 and 202 in the acquisition and operation of the Biltmore Hotel. In reviewing the issue, it is this Office's legal opinion that the City complied with the Charter provisions by holding a general election in April 1973 where the qualified voters of the City were asked to, and did in fact, approve the acquisition and operation of the Biltmore Hotel.

Pursuant to Section 201 of the City Charter, the City was allowed to "purchase and/or operate...a hotel...provided, however, that before said city undertake[s] to operate such property or any part thereof as a hotel and/or health resort, such operation must be approved by a majority of the qualified electors of said city voting in either a general or a special election." Coral Gables City Charter, Section 201. Moreover, pursuant to Section 202, the City was authorized to finance the purchase of the Biltmore property through general obligation, as long as such action was approved by a majority of the qualified electors. Coral Gables City Charter, Section 202(d).

In accordance with the Charter provisions above, the City of Coral Gables, (the "City") through Ordinance Number 1900¹, held a bond election on the question of issuing general obligation bonds of the City for the Biltmore Hotel acquisition. Minutes from the April 14, 2917 City Commission meeting indicate that a general election was held on April 13, 1971, at which the City Commission, sitting as the Board of Canvassers, declared the results of such election. Proposition Number 10 on the ballot, which stated:

¹ Ordinance Title: An ordinance ordering and providing for the holding of a bond election of the freehold electors and a bond election of the qualified electors in the City of Coral Gables, Florida, on the question of the issuance of \$3,000,000 general obligation bonds of the City for acquiring certain property known generally as the "Biltmore Hotel Complex". Such bond elections to be held on April 13, 1971.

“Shall the City of Coral Gables issue not exceeding \$3,000,000 principal amount of general obligation bonds of the City bearing interest at not exceeding the maximum legal rate of interest at the time of the sale of the bonds, maturing not later than thirty (30) years from the date of issuance thereon, payable from ad valorem taxes levied on all taxable property in the City without limit as to rate or amount for the purpose of financing the cost of acquiring that certain property known generally as the BILTMORE HOTEL COMPLEX AND ALL LANDS AND BUILDINGS THEREIN as more specifically described and provided in Ordinance No. 1900 of the Commission of the City adopted on the ninth day of February, 1971.”

At said election, this measure received 3685 votes in favor and 3450 votes against. Accordingly, the issuance of the general bonds was approved. Similarly, the language in Ordinance 1900, which was specifically referenced in Proposition Number 10, stated that the purchase of the property “shall also include any other purposes appurtenant and incidental thereto.” City of Coral Gables Ordinance No. 1900, February 1971. The operation of the property as a hotel was clearly an appurtenant and incidental use as the property had been historically operated as a hotel. Thus, in approving the acquisition of the Biltmore, the electors of the City also approved the operation of the property as a hotel, in compliance with Section 201. Accordingly, the City complied with Charter Section 201 through Ordinance 1900 and the special election held in April 1971.

At this time, no further referendum is required. Any such referendum requirement, presently or in the past, would be superseded by the Home Rules Powers Act. Indeed, the Home Rule Powers Act grants municipalities broad powers and expressly removes the requirement of such a referendum. Accordingly, through the elector approval of the Biltmore acquisition and operation, as well as through operation of the Home Rule Powers Act, City Charter sections 201 and 202 are superseded and void, and thereby should be stricken from the Charter. Accordingly, pursuant to Sections 2-201(e)(1), (8), and (9) of the City Code, along with the Home Rule Powers Act, Charter Sections 201 and 202 should be stricken as superseded. The Municipal Code Corporation will be notified to strike sections 201 and 202.

From: [Leen, Craig](#)
To: [Paulk, Enga](#)
Cc: [Ramos, Miriam](#); [Figueroa, Yanneris](#); [Chen, Brigitte](#)
Subject: FW: City Attorney Opinion Regarding Sections 201 and 202 of the Related Laws section of the City Charter
Date: Wednesday, January 06, 2016 12:38:32 PM
Attachments: [City Attorney Opinion Regarding Sections 201 and 202 of the City Charter \[FINAL VERSION\].pdf](#)
[image001.png](#)
Importance: High

Please publish the opinion in the email below and the attachment.

Craig E. Leen, City Attorney

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City, County and Local Government Law*
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CORAL GABLES
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Celebrating 90 years of a dream realized.

From: Leen, Craig
Sent: Wednesday, January 06, 2016 12:38 PM
To: Foeman, Walter; Urquia, Billy
Cc: Ramos, Miriam; Figueroa, Yanneris; Chen, Brigitte; Paulk, Enga
Subject: City Attorney Opinion Regarding Sections 201 and 202 of the Related Laws section of the City Charter
Importance: High

Mr. Clerk,

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