



To: Leonard Roberts

From: Miriam S. Ramos, Deputy City Attorney for the City of Coral Gables

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

RE: Legal Opinion Regarding Actors Playhouse/Miracle Theater Repairs

Date: December 14, 2015

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Pursuant to Sec. 5 of Resolution No. 2012-53, regarding insurance, "...the City Attorney and the City Manager or designee may act in the best interests of the City to settle any disputed matter, regardless of the amount of the settlement, where the City Commission has previously approved an insurance policy that would provide full of partial coverage for such settlement."

In the instant case, Johns Eastern and the excess insurance carrier are both involved in assessing the claim and have made an initial determination that the claim will likely be covered. Furthermore, the damage to the theater is one that possess a real life-safety issue and exposes the City to liability. Hence, it is imperative that the repairs be made as soon as possible so as to minimize potential harm to theater employees and visitors. The City Commission is aware of the issue, as it was discussed at the Oct. 27th Commission meeting during consideration of Resolution No. 2015-258, renewing the lease for Actor's Playhouse. The Commission expressed their collective desire to have this matter resolved as soon as possible.

Given the above, it is the opinion of this office, that the repairs should commence as soon as possible with the contractor deemed by City Staff to provide adequate services at a reasonable price, under the settlement authority given to the City Attorney's Office in Resolution No. 2012-53. 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.

**From:** [Leen, Craig](#)  
**To:** [Paulk, Enga](#)  
**Cc:** [Ramos, Miriam](#)  
**Subject:** Fwd: 569248 Actors Playhouse (Claim #:L569248, Claimant:Actors Playhouse, Username:Jmelendez) (Claim #:L569248, Claimant:Actors Playhouse, Username:Jmelendez)  
**Date:** Monday, December 14, 2015 8:51:19 AM  
**Attachments:** [image003.png](#)  
[image004.png](#)  
[image005.png](#)

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Please publish.

Sent from my iPhone

Begin forwarded message:

**From:** "Ramos, Miriam" <[mramos@coralgables.com](mailto:mramos@coralgables.com)>  
**Date:** December 11, 2015 at 10:30:26 AM EST  
**To:** "Roberts, Leonard" <[LRoberts@coralgables.com](mailto:LRoberts@coralgables.com)>, "Ruiz, David" <[druiz@coralgables.com](mailto:druiz@coralgables.com)>, "Melendez, Javier" <[johnseastern@myclaimmail.com](mailto:johnseastern@myclaimmail.com)>, "Gonzalez, Alejandro" <[agonzalez3@coralgables.com](mailto:agonzalez3@coralgables.com)>  
**Cc:** "Rodriguez, Ralph" <[rrodriguez1@coralgables.com](mailto:rrodriguez1@coralgables.com)>, "Gomez, Diana" <[dgomez@coralgables.com](mailto:dgomez@coralgables.com)>, "Jaramillo-Velez, Elsa" <[ejaramillo@coralgables.com](mailto:ejaramillo@coralgables.com)>, 'John Powers' <[JPowers@JohnsEastern.com](mailto:JPowers@JohnsEastern.com)>, "Pounds, Michael" <[mpounds@coralgables.com](mailto:mpounds@coralgables.com)>, "Leen, Craig" <[cleen@coralgables.com](mailto:cleen@coralgables.com)>  
**Subject:** RE: 569248 Actors Playhouse (Claim #:L569248, Claimant:Actors Playhouse, Username:Jmelendez) (Claim #:L569248, Claimant:Actors Playhouse, Username:Jmelendez)

Good morning Leonard,

Pursuant to Sec. 5 of Resolution No. 2012-53, regarding insurance, "...the City Attorney and the City Manager or designee may act in the best interests of the City to settle any disputed matter, **regardless of the amount of the settlement**, where the City Commission has previously **approved an insurance policy** that would provide full of partial coverage for such settlement."

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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:** Roberts, Leonard

**Sent:** Thursday, December 10, 2015 10:59 AM

**To:** Ruiz, David; Ramos, Miriam; 'Melendez, Javier'; Gonzalez, Alejandro

**Cc:** Rodriguez, Ralph; Gomez, Diana; Jaramillo-Velez, Elsa; 'John Powers'; Pounds, Michael

**Subject:** RE: RE: 569248 Actors Playhouse (Claim #:L569248, Claimant:Actors Playhouse, Username:Jmelendez) (Claim #:L569248, Claimant:Actors Playhouse, Username:Jmelendez)

**Importance:** High

Miriam/David, since the cost of the renovations are in excess of the CM's authorization, the fastest way to process, through the City's procurement code, would be to present to the Commission as an emergency procurement under Section 2-771 at the January 12<sup>th</sup> Commission meeting. This process still has some hurdles.

Alejandro/Javier/Miriam, in order to procure this bid, the scope of work TCS provided for \$200k would have to be comparable to the other two vendor quotes and comparable to the scope of work provided by John Eastern. In other words, the three bids would have to be in line with the insurance scope in order to properly process through procurement.

Miriam, staff has done a lot of work to get to this point and the process of payment (even as an emergency procurement) will take some time and may extend the burden to Actor's operations. Could this fall within the City Attorney's authorization of settlements since it is an insurance claim that would not require going through the process above?

Javier/David, is the insurance proceeds for the renovations through our "self-insurance" funds or through a 3<sup>rd</sup> party insurance source?

Thanks,

Leonard Roberts, CPA  
Economic Development Assistant Director  
The City of Coral Gables  
1 Alhambra Plaza

Suite 617  
Coral Gables, FL 33134  
305-460-5314  
305-445-9623 (fax)



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**From:** Ruiz, David  
**Sent:** Friday, December 4, 2015 10:41 AM  
**To:** 'John Powers'; 'Melendez, Javier'; Ramos, Miriam  
**Cc:** Roberts, Leonard; Gonzalez, Alejandro; Rodriguez, Ralph; Gomez, Diana; Jaramillo-Velez, Elsa  
**Subject:** RE: RE: 569248 Actors Playhouse (Claim #:L569248, Claimant:Actors Playhouse, Username:Jmelendez) (Claim #:L569248, Claimant:Actors Playhouse, Username:Jmelendez)

Please advise once the funding issue is resolved so that we advise Public Works to advise the contractor (TCS) to proceed with repairs.

*David J. Ruiz*  
*Risk Manager JD CPCU*  
*City of Coral Gables*  
*2801 Salzedo Street, 2<sup>nd</sup> Floor*  
*Coral Gables FL 33134*  
*305-460-5528*  
[druiz@coralgables.com](mailto:druiz@coralgables.com)



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**From:** John Powers [<mailto:JPowers@JohnsEastern.com>]  
**Sent:** Friday, December 04, 2015 9:58 AM  
**To:** 'Melendez, Javier'; Ruiz, David; Ramos, Miriam  
**Cc:** Roberts, Leonard  
**Subject:** RE: RE: 569248 Actors Playhouse (Claim #:L569248, Claimant:Actors Playhouse, Username:Jmelendez) (Claim #:L569248, Claimant:Actors Playhouse, Username:Jmelendez)

Hi Javier,

I will certainly request the payment. Please let me know when the funding issue is resolved. Thanks.

Regards,  
John Powers, AIC, ARM  
Johns Eastern Company  
941-907-3100 x1022

**From:** Melendez, Javier [<mailto:johnseastern@myclaimmail.com>]  
**Sent:** Thursday, December 03, 2015 10:59 PM  
**To:** [druiz@coralgables.com](mailto:druiz@coralgables.com); [mramos@coralgables.com](mailto:mramos@coralgables.com)  
**Cc:** [LRoberts@coralgables.com](mailto:LRoberts@coralgables.com); John Powers  
**Subject:** RE: RE: 569248 Actors Playhouse (Claim #:L569248, Claimant:Actors Playhouse, Username:Jmelendez) (Claim #:L569248, Claimant:Actors Playhouse, Username:Jmelendez)

Thank you all. We will request payment asap. We will have to do a special funding request which is done internally between our Pay Department and your Finance Department.

John: Mike is out tomorrow and this check is over my check request authority. Would you mind requesting payment after the special funding request is done?

Thanks again!

\*\*\*\*\* ORIGINAL MESSAGE \*\*\*\*\*

**FROM:** [mramos@coralgables.com](mailto:mramos@coralgables.com)  
**SENT:** 12/03/2015  
**TO:** Javier Melendez  
**Subject:** RE: 569248 Actors Playhouse (Claim #:L569248, Claimant:Actors Playhouse, Username:Jmelendez)

I have discussed with Craig and we are both in agreement. Please proceed.

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: Ruiz, David  
Sent: Thursday, December 03, 2015 2:51 PM  
To: 'Melendez, Javier'; Ramos, Miriam  
Cc: Roberts, Leonard; Gonzalez, Alejandro; Jaramillo-Velez, Elsa; Gomez, Diana  
Subject: RE: 569248 Actors Playhouse (Claim #:L569248, Claimant:Actors Playhouse, Username:Jmelendez)

Javier, per our conversation after discussing the scope of damages with Alejandro Gonzalez, I am comfortable with having this estimate paid. Let's await to hear back from Miriam.

Miriam, please advise if you are also in agreement.

David J. Ruiz

Risk Manager JD CPCU

City of Coral Gables

2801 Salzedo Street, 2nd Floor

Coral Gables FL 33134

305-460-5528

[druiz@coralgables.com](mailto:druiz@coralgables.com)

From: Melendez, Javier [<mailto:johnseastern@myclaimmail.com>]  
Sent: Thursday, December 03, 2015 2:28 PM  
To: Ruiz, David; Ramos, Miriam  
Cc: Roberts, Leonard  
Subject: 569248 Actors Playhouse (Claim #:L569248, Claimant:Actors Playhouse, Username:Jmelendez)

Miriam and David

This is a claim where the Miracle Theater, which is being leased by Actors Playhouse, was damaged because of water intrusion. Apparently, the water damage was caused by the faulty workmanship of Lee Construction, the contractor doing repairs on behalf of the City on the Miracle Theater. Their insurer is Amerisure.

A claim was presented against Amerisure. However, after long delays they finally

denied the claim and have not been responsive to our requests to reconsider their denial. Per our discussion today, the action plan is to report the amount of damages to the City's excess property insurance carrier, pay now for reasonable repairs, request reimbursement from the City's excess property insurance carrier and then pursue a subrogation claim against Lee Construction for the \$50k SIR (Self-insured retention also known as deductible).

Attached is the latest repair estimate in the amount of \$197,852.07. During our conference call, it was collectively agreed that the estimate is fair and reasonable. As such, we formally recommend payment in that amount. This is in excess of the already paid \$24,889 to the tenant as reimbursement for some expenses they have already incurred with.

Please let me know if you have any questions or if the City gives us the authority to proceed with the payment for the repairs.

Cordially;

Javier Meléndez, ACA  
TPA Liability Supervisor

Johns Eastern Company, Inc.

PO Box 110239  
Lakewood Ranch, FL 34211-0004  
Tel: (941) 907-3100 ext. 1036  
Fax: (813) 402-7943

[jmelendez@johnseastern.com](mailto:jmelendez@johnseastern.com)

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