



To: Dona Spain; Bridgette Thornton

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

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

RE: Legal Opinion Regarding New Architect Working On Abandoned Project

Date: December 8, 2014

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I am aware of the history of this application, including the involvement of Miami-Dade County and CDBG funds, the rehabilitative and public purpose of this project, and the abandonment of the project by the prior architect. Based on the circumstances presented, and pursuant to section 2-702 of the Zoning Code, I would be fine with treating this as an amendment to the permit request, or granting an equitable toll based on the abandonment of the architect and the public funds and purpose involved. Accordingly, it would not need to go back to the Board, as they are acting in a reasonably prompt and equitable manner under the circumstances. Carol, please place this in the opinion folder.

In reviewing these provisions, it is clear that section 2-2112(c)(1) allows a refund where an impact fee "has been paid" for "such fee" where "the project for which a building permit has been issued has been altered resulting in a decrease in the amount of the impact fee due." This language is clear and express, and the plain meaning controls: Any refund must come from an impact fee that has been paid.

## Parramore, Carol

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**From:** Leen, Craig  
**Sent:** Monday, December 08, 2014 5:31 PM  
**To:** Spain, Dona; Thornton, Bridgette  
**Cc:** Kautz, Kara; Ahouse, Emily; Parramore, Carol  
**Subject:** RE: MacFarlane Variances

**Importance:** High

I am aware of the history of this application, including the involvement of Miami-Dade County and CDBG funds, the rehabilitative and public purpose of this project, and the abandonment of the project by the prior architect. Based on the circumstances presented, and pursuant to section 2-702 of the Zoning Code, I would be fine with treating this as an amendment to the permit request, or granting an equitable toll based on the abandonment of the architect and the public funds and purpose involved. Accordingly, it would not need to go back to the Board, as they are acting in a reasonably prompt and equitable manner under the circumstances. Carol, please place this in the opinion folder. Regards, Craig

**Craig E. Leen, City Attorney**  
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City, County and Local Government Law*  
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**From:** Spain, Dona  
**Sent:** Monday, December 08, 2014 5:03 PM  
**To:** Leen, Craig; Thornton, Bridgette  
**Cc:** Kautz, Kara; Ahouse, Emily  
**Subject:** FW: MacFarlane Variances

Good thought.

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

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**From:** Kautz, Kara  
**Sent:** Monday, December 08, 2014 4:51 PM  
**To:** Spain, Dona  
**Cc:** Ahouse, Emily  
**Subject:** Re: MacFarlane Variances

Does the variance language say they expire unless a permit is applied for? They applied for a permit already. Maybe the new drawings can be a takeover of that permit.

Sent from my iPhone

On Dec 8, 2014, at 4:26 PM, "Spain, Dona" <[dspain@coralgables.com](mailto:dspain@coralgables.com)> wrote:

Craig and Bridgette – see below the variances that were granted in 2012 for the homes in MacFarlane. The variances have expired. This was the project that was abandoned by the architect. The county now has another architect working on them and is scheduled to go to the BOA next week. Is there any way we can avoid going back to the Historic Preservation Board just for the variances? I'd like to get them permitted ASAP since the families moved out in anticipation of the work being done two years ago.

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

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**From:** Ahouse, Emily  
**Sent:** Monday, December 08, 2014 4:20 PM  
**To:** Spain, Dona  
**Subject:** MacFarlane Variances

Variances were approved for the residences at 110 Oak Avenue, 121 Florida Avenue, and 134 Florida Avenue in 2012 as part of the Miami-Dade County CDBG funded Rehabilitation program. The work was never completed, and the project is ready to start the permitting process again. Resolutions authorizing the variances were HPR171-CPASP2012-09, HPR170-COASP2012-08, and HPR169-COASP2012-07.

The variances requested for each property were:

1. Grant a variance to allow wood frame construction vs. all exterior walls of all buildings shall be constructed of concrete, glass block, poured concrete, stone, hollow tile, coral rock, or clay brick as required by Section 5-606 of the "Coral Gables Zoning Code;"
2. Grant a variance to permit wood facing vs. wood facings shall be permitted on the exterior walls of single-family residences in that area of Coral Gables lying south of the Coral Gables Deep Waterway and east of Old Cutler Road as required by Section 5-607 of the "Coral Gables Zoning Code;"

In addition, the residence at 110 Oak Avenue also received the following variance:

1. Grant a variance to allow the structure to have a rear setback of three (3) feet – two (2) inches vs. a minimum rear setback of ten (10) feet shall be maintained and required on all buildings as required by Section 4-101 (4) c of the "Coral Gables Zoning Code;" and

We want to know if these variances can be extended, or if they need to go back to the Board in January.