




To: Diana Gomez

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

RE: Legal Opinion Regarding Pension Ordinance 50-246(a)(6)

Date: January 21, 2014

Pursuant to section 2-201(e)(1) and (8) of the City Code, I view the ordinance as a remedial provision intended to help those affected by section 415 and to remedy the impacts caused by the prior Pension Board Actuary's errors regarding section 415 (see generally Resolution No. 2013-92). Accordingly, it should be interpreted with that purpose in mind where the language of the ordinance is not otherwise dispositive. In light of this purpose, it is my interpretation that no interest rate is to be charged as that is not called for in this specific remedial ordinance. As for "all required participant contributions," which is called for in the ordinance, it is the rate in effect when each contribution would have been made (as those were the required participant contributions).

Hernandez, Cristina

From: Leen, Craig
Sent: Tuesday, January 21, 2014 9:44 AM
To: Hernandez, Cristina
Cc: Thornton, Bridgette; Figueroa, Yaneris
Subject: FW: Question on Ordinance 50-246(a)(6)

Importance: High

Please place in the opinion folder.

Craig E. Leen
City Attorney

From: Leen, Craig
Sent: Tuesday, January 21, 2014 9:44 AM
To: Gomez, Diana
Cc: 'Jim Linn'
Subject: RE: Question on Ordinance 50-246(a)(6)
Importance: High

Pursuant to section 2-201(e)(1) and (8) of the City Code, I view the ordinance as a remedial provision intended to help those affected by section 415 and to remedy the impacts caused by the prior Pension Board Actuary's errors regarding section 415 (*see generally* Resolution No. 2013-92). Accordingly, it should be interpreted with that purpose in mind where the language of the ordinance is not otherwise dispositive. In light of this purpose, it is my interpretation that no interest rate is to be charged as that is not called for in this specific remedial ordinance. As for "all required participant contributions," which is called for in the ordinance, it is the rate in effect when each contribution would have been made (as those were the required participant contributions).

Craig E. Leen
City Attorney

From: Gomez, Diana
Sent: Tuesday, January 21, 2014 8:26 AM
To: Leen, Craig
Subject: Question on Ordinance 50-246(a)(6)
Importance: High

Hi Craig,

Section 50-246(a)(6) of the Pension Ordinance gives an employee the ability to rescind or advance their DROP election if they are affected by the IRS Sec. 415 limits and were never notified when they made their original DROP election. The ordinance also states that they must pay all required participant contributions, however, it is silent as to what contribution rate should be charged and whether or not interest should be charged.

Can you please interpret the code provision and provide me your opinion as to the contribution rate that should be charged and whether or not interest should be charged (and at what rate, if applicable).

A response as soon as possible would be appreciated as we have one individual who is being affected and needs to make a decision soon... thanks.

Diana M. Gomez
Finance Director
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