

CITY OF MIAMI
OFFICE OF THE CITY ATTORNEY
LEGAL OPINION #17-003

TO: Honorable Ken Russell
District 2 Commissioner
FROM: Victoria Méndez, City Attorney
DATE: October 16, 2017
RE: First Reading Under Section 7.1.2(8)(g)(3) of the Miami 21 Code
Matter ID No.: 17-2074

You have asked for a written legal opinion on substantially the following specified question of law:

I. Question

WHEN DOES “FIRST READING BY THE CITY COMMISSION” OCCUR UNDER THE PROVISIONS OF SECTION 7.1.2(8)(G)(3) OF THE MIAMI 21 CODE?

II. Brief Answer

The term “first reading by the City Commission” under Section 7.1.2(8)(g)(3) of Miami 21 occurs when an Ordinance is passed on first reading. Once an Ordinance has been passed on first reading, the time period stated in Section 7.1.2(8)(g)(3) of Miami 21 begins to run.

III. Legal Analysis

Section 7.1.2(8)(g)(3) of Miami 21 provides, in pertinent part, as follows:

If a recommendation of the Planning, Zoning and Appeals Board is not legislatively decided within twelve (12) months from first reading by the City Commission, the application upon which the report and recommendation are based shall be deemed to have been denied. However, for an amendment to the Comprehensive Plan and its corresponding Miami 21 Atlas amendment, the time will be extended an additional twelve (12) months. In both instances, the provisions of Sections 62-54 and 62-55 of the City Code will not apply unless otherwise required by the City Commission. No day in the month of August shall be counted in the administration of this Section.

(Emphasis added).

The Miami 21 Code is the City of Miami’s Zoning Ordinance. Ordinances, like statutes, are interpreted pursuant to their plain meaning when they are clear and unambiguous. See In re McCollam, 612 So. 2d 572 (Fla. 1993) (when language of statute is clear and unambiguous and

conveys a clear meaning, statute must be given its plain and ordinary meaning); See Op. Att'y Gen. Fla. 93-47 (1993) (in construing statute which is clear and unambiguous, the plain meaning of statute must first be considered). However, “[w]here a statute is open to multiple interpretations, Florida courts endeavor to avoid interpretations which would lead to absurd results.” See Hardee County v. FINR II, Inc., 221 So. 3d 1162, 1162 (Fla. 2017), reh'g denied, SC15-1260, 2017 WL 3015682 (Fla. July 17, 2017). Furthermore, a literal interpretation of a statute need not be given when to do so would lead to an unreasonable conclusion. See State v. Calderon, 951 So. 2d 1031, 1033 (Fla. 3d DCA 2007).

Florida law and the Miami City Charter and City Code require that proposed ordinances be read in title only at least two (2) times before final passage. In this regard, Section 166.041(3)(a), Florida Statutes, provides in part: “[A] proposed ordinance may be read by title, or in full, on at least 2 separate days. . . .” Section 4(f) of the City Charter provides that “Ordinances shall be read by title only.” Section 2-33(h) of the City Code provides: “All ordinances shall be read by title only prior to passage.”

Thus, the issue remains whether “first reading by the City Commission,” in the context of Section 7.1.2(8)(g)(3) of Miami 21, occurs when the title of the Ordinance is “read” or when the Ordinance is actually “passed” on first reading. When both options are considered, it is evident that “first reading by the City Commission” must be interpreted to occur when the Ordinance is “passed” on first reading. To interpret the language in that Section of Miami 21 otherwise would result in an unreasonable conclusion. For example, if the title of an Ordinance is read and the Ordinance is not passed but instead deferred to a later date, then legislatively, the Ordinance would be subject to multiple “first readings.” This would defeat the purpose of Section 7.1.2(8)(g)(3) of Miami 21 which is to pinpoint a single date from which the Commission has a specified time period to pass the Ordinance on second reading or else the recommendation of the Planning, Zoning and Appeals Board is deemed denied. Hence, the time period under Section 7.1.2(8)(g)(3) of Miami 21 begins to run when the Commission has passed the Ordinance on first reading.

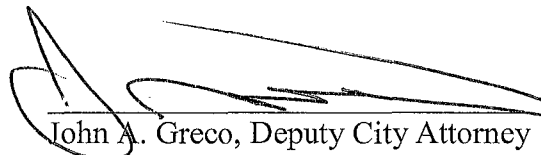
IV. Conclusion

In summary, the date of “first reading by the City Commission” of an Ordinance as set forth in Section 7.1.2(8)(g)(3) of Miami 21 is the date on which the City Attorney reads the title of the ordinance and the City Commission votes to pass the Ordinance on first reading.

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cc: Honorable Mayor and Members of the City Commission
Daniel J. Alfonso, City Manager
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VM:JAG:kj