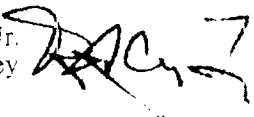


Memorandum



Date: June 25, 2010
To: Commissioner Carlos A. Gimenez
From: R. A. Cuevas, Jr.
County Attorney 
Subject: Electronic screen on the American Airlines Arena

The American Airlines Arena ("Arena") is located in the City of Miami. A large electronic sign is located on the exterior of the Arena facing Biscayne Boulevard. You have asked whether the County Code was followed as it pertains to this sign.

Section 33-82(a) of the County Code provides:

- (a) This article [Article VI, entitled Signs] shall be known as the "Sign Code of Dade County, Florida" and shall be applicable in the unincorporated areas of Dade County and specifically in the incorporated areas of Dade County. When the provisions of this article are applicable to a municipality, the municipality shall be responsible for enforcement.

The County's Sign Code thus applies within the City of Miami, and the City is responsible for enforcement of the County Sign Code within the City's boundaries.

The County owns the Arena. An Arena Manager, an affiliate of the Miami Heat, manages and operates the Arena on behalf of the County pursuant to a Management Agreement. The Agreement obligates the Arena Manager to operate and maintain the Arena in compliance with all applicable laws and to maintain all necessary permits and authorizations required by all applicable zoning and use requirements and regulations. The Management Agreement specifically requires any installation of permanent signage upon the exterior facade of the Arena be in compliance with applicable laws.

The Management Agreement requires the County, in its capacity as building owner, to join in on any applications by the Arena Manager to obtain permits and authorizations required by applicable laws, and provides that such County joinder does not constitute regulatory approval of the application. That approval is specifically reserved to the discretion of the governmental authorities whose approval is required by applicable law.

We have requested and obtained a copy of the City of Miami file pertaining to the sign in question. The file indicates that, in 2006, the Arena Manager applied for and obtained from the City of Miami Planning Director approval for "sponsorship signage" on the Arena. The requested approval pertained specifically to six sheets of plans entitled "Exterior Signage Proposal" prepared by Fullerton Day Architects dated February 22, 2006. The City Planning Director's May 10, 2006 approval was subject to the condition that "the content of all signage, and any future changes of copy, is to relate only to products sold, services rendered, or activities held on site, or to official sponsors of an activity and/or entity that plays, performs, or is exhibited or promoted within the Arena." No express reference to the County Sign Code appears in the 2006 approval letter or in the file provided by the City.

In 2008, the Arena Manager requested from the City a modification to the 2006 approval, to allow use of a "digital media mesh assembly" for the presentation of "digital quality, graphic images on a virtual 'screen' actually comprised of small horizontal LED rods..." In its request, the Arena Manager indicated that "for a variety of reasons," the 2006 plans were never implemented, and that the modified proposal would allow the image on the signage to "be changed to allow for the exhibition of the Arena's various sponsors, as well as announcements for special events, games, or exhibitions."¹

On July 2, 2008, the City of Miami Zoning Administrator granted her approval of the request, subject to "substantial conformance with the attached drawings, CD-ROM, and brochure for purposes of compliance with zoning limitations on flashing and animated signage with the condition that the movement be limited to slow panning of static images versus quick flashing images or video streaming."

On July 9, 2008, the City of Miami Planning Director sent to the Arena Manager a letter granting approval of the media mesh signage, "in substantial conformance with the attached drawings, CD-ROM, and brochure." No express reference to the Miami-Dade County Sign Code appears in these 2008 letters of approval or in the copy of the file provided.

DUAL JURISDICTION OF CITY AND COUNTY

Under the provisions of Sec. 33-82(a) of the County Code, the Arena Manager appropriately filed its 2006 and 2008 requests for approval of the Arena sign with the City of Miami.²

The County Commission adopted the County Sign Code and determined, as a matter of policy, that the Code's requirements should apply throughout the entire County as a minimum standard, including the incorporated areas. The delegation of authority to municipalities to enforce the County sign Code within municipal boundaries was not exclusive, and the County retains the power to assure that the County Sign Code is uniformly interpreted and applied throughout the entire County, including

¹ The Arena Manager further stated that the Florida Department of Transportation ("FDOT") had "clarified" that the modified request is "under the City's jurisdiction," and that "Mr. Alex Muñoz and Ms. Wendy Norris, of Miami-Dade County, have also reviewed this proposal and have no objection to its incorporation into the Arena design." A copy of Ms. Norris's written approval for the Arena Manager to apply to the City for the necessary permits for this sign is attached.

² Under the Management Agreement, the County as building owner, properly consented to the filing of the applications.

within municipal boundaries. As such, the County Commission could, upon allegation or determination that a violation of the County Sign Code has occurred, direct the County's Planning and Zoning Director to review a municipality's enforcement of the County Sign Code and determine whether, in the Director's professional judgment, the municipality has properly interpreted and applied the Code. Such review by the County Planning and Zoning Director would be fact dependent based on the size and type of the signs involved, the location of signs, the size of the property on which each sign is located and on other factual matters. Were the County Planning and Zoning Director to determine that a municipality has not properly interpreted or applied the County Sign Code, the County Commission could authorize appropriate action to be taken to require any city permitted or authorized signs not in compliance be made to comply with the Code or be removed.

cc: Honorable Chairman and members of the Board of County Commissioners
Mayor Carlos Alvarez
George Burgess
Alex Muñoz
Wendi J. Norris
Marc LaFerrier



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- Strategic Business Management
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- Vizcaya Museum and Gardens
- Water and Sewer

May 2, 2008

Ms. Raquel Libman
 Executive Vice President and General Counsel
 The Heat Group
 American Airlines Arena
 601 Biscayne Boulevard
 Miami, FL 33132

Dear Ms. Libman,

In response to your request regarding the installation of a digital media mesh assembly on the west façade of the Arena, this serves as approval to apply for the necessary permits from the City of Miami. As the City of jurisdiction, they will advise what is allowable within their code.

Please feel free to contact me if you have any questions.

Sincerely,

Wendi J. Norris
 Director

c: George M. Burgess, County Manager
 Alex Munoz, Assistant County Manager

Delivering Excellence Every Day