

**CITY OF CORAL GABLES, FLORIDA**

**RESOLUTION NO. 2015-100**

A RESOLUTION OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA AUTHORIZING INITIATION OF STATUTORY GOVERNMENTAL DISPUTE RESOLUTION PROCEDURES OVER THE CORAL GABLES ELEMENTARY SCHOOL CONSTRUCTION AND WINDOW REPLACEMENT PROJECT, AND EMERGENCY LITIGATION.

**WHEREAS**, Coral Gables Elementary School (the “School”), located at 105 Minorca Avenue, is designated as a Coral Gables local historic landmark, and has held such designation since 1982. The Miami-Dade County School Board (“MDPS”) has never appealed or challenged such designation, and has accepted the benefits of such designation. The School is also listed on the National Register of Historic Places; and

**WHEREAS**, the School is a treasure for the community. The School was commissioned by George Merrick, designed by Kiehnel & Elliott, and opened in 1923. The School is one of the key representative buildings of that era, and a central part of the history of Coral Gables;

**WHEREAS**, MDPS hired T&G Constructors to perform construction work at the School. T&G Constructors began removing original windows at the school and replacing them with white aluminum windows; and

**WHEREAS**, neither MDPS nor T&G Constructors notified or otherwise sought permission from the City to commence the construction and window replacement project, and the white aluminum windows were not approved for installation by the City; and

**WHEREAS**, the School Board has not complied with the City’s historic preservation regulations and has incorrectly stated that they do not apply;

**WHEREAS**, the City lawfully issued a red tag stop work order pursuant to section 7-401 of the Zoning Code, which authorizes the City to issue a red tag where a necessary approval (i.e. certificate of appropriateness) has not been obtained;

**WHEREAS**, the Coral Gables Zoning Code contains the City’s historic preservation regulations, encoded in Article 3, Division 11. These regulations are applicable to MDPS under well-established precedent holding that state agencies, including school boards, are subject to local zoning ordinances, and must appear before local boards and comply with local procedures. *See City of Orlando v. School Board of Orange County*, 362 So. 2d 694,694 (Fla. 2d DCA 1978) (answering certified question and holding that school boards were subject to municipal zoning ordinances); *The Village of North Palm Beach v. School Board of Palm Beach County*, 349 So. 2d 683, 683-84 (Fla. 2d DCA 1977); *accord Hillsborough Assoc. Etc. v. City of Temple Terrace*, 322 So. 2d 610, 612 (Fla. 1976); and

**WHEREAS**, the City, through its Historic Preservation Board and Historic Preservation Officer has significant legal rights in enforcing its regulations, which exist to protect historic landmarks located in Coral Gables; and

**WHEREAS**, historic landmarks, such as the School, are vital to the public welfare, and will be irreparably damaged for current and future generations if not protected. In the preamble to the National Historic Preservation Act, Congress found that the preservation of America's heritage "is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic and energy benefits will be maintained and enriched for future generations of Americans;" and

**WHEREAS**, the School Board informed the City it intends to complete replacement of all windows at the School prior to the commencement of the new school year in August 2015; and

**WHEREAS**, Florida Statute 164.1052 establishes a mechanism by which a governmental entity may initiate dispute resolution proceedings against another governmental entity prior to taking court action; and

**WHEREAS**, it is the intention of the City Commission to initiate the conflict resolution procedures provided by Fla. Stat. § 164.1052 prior to initiating court proceedings against the School Board; and

**WHEREAS**, Florida Statute 164.1041(2) provides that a governmental entity may pursue immediate court action against another governmental entity if it finds by a three-fourths vote of its governing body that that an immediate danger to the health, safety, or welfare of the public requires immediate court action; and

**WHEREAS**, the City Commission finds the School Board's imminent construction and window replacement project poses an immediate danger to the public welfare and will compromise significant legal rights of the City, which requires immediate court action; and

**WHEREAS**, the City Commission may authorize court action pursuant to section 2-201(e)(3) of the City Code;

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA:**

**SECTION 1.** The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon adoption hereof.

**SECTION 2.** The City Attorney is hereby authorized and directed to commence the dispute resolution procedures contained in Chapter 164 of the Florida Statutes against MDPS. The City Attorney is further authorized to take all steps necessary, including immediate court action if unauthorized work continues because of the immediate danger to the public welfare, in order to compel MDPS and all contractors working at the School to comply with the historic preservation regulations as they pertain to the window replacement project and other construction work.

**SECTION 3.** The City Manager and City Attorney are hereby granted all authority necessary to enforce the Zoning Code and require compliance by MDPS and its contractors with the City's red tag and historic preservation regulations, including compliance with the City's certificate of appropriateness procedure. The City may continue to use all lawful and available means, in addition to this resolution, to obtain compliance, including Code Enforcement and Law Enforcement, where appropriate.

**SECTION 4.** This Resolution shall become effective immediately upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS SIXTEENTH DAY OF JUNE, A.D., 2015.

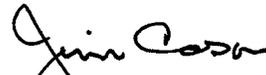
(Moved: Lago / Seconded: Slesnick)

(Yeas: Keon, Lago, Quesada, Slesnick, Cason)

(Unanimous: 5-0 Vote)

(Agenda Item: I-2)

APPROVED:



JIM CASON  
MAYOR

ATTEST:



WALTER J. FOEMAN  
CITY CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY



CRAIG E. LEEN  
CITY ATTORNEY