



To: Islands of Cocoplum Homeowners Association, Inc  
The Cocoplum Civic Association, Inc

From: Miriam Soler Ramos, City Attorney for the City of Coral Gables *MSR*

RE: Legal Opinion Regarding Board of Architects (BOA) Appeal Regarding  
Cocoplum Entrance Features

Date: March 21, 2019

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On August 16, 2018, the Islands of Cocoplum Homeowners Association, Inc. (Cocoplum 2) submitted plans (AB-18-04-3802) to the Board of Architects (BOA) for modification to entrance features located in the City's right-of-way at the intersection of Cocoplum Road and Los Pinos Blvd. The BOA provided some general comments and deferred the item. On January 10, 2019, a set of revised plans that included the replacement of the entrance features at Cartagena Circle (the entrance of Cocoplum) in the City's right-of-way, were presented to the BOA and resulted in a denial by the board. The Cocoplum Civic Association, Inc. (Cocoplum 1), along with counsel, appeared at the BOA meetings where Cocoplum 2 presented the plans and made legal arguments regarding the propriety of the encroachments in the City's right-of-way.<sup>1</sup>

In accordance with Section 3-606(B) of the City of Coral Gables Zoning Code and the Board of Architects Rules of Procedure (Rules of Procedure), Cocoplum 2 filed an appeal of the BOA denial on January 18, 2019. In accordance with the Zoning Code and the Rules of Procedure, a conflict resolution meeting was held on February 6, 2019. At the conflict resolution meeting City staff and the appellant/applicant reached an agreement, which was memorialized in a Settlement Agreement (attached hereto as Exhibit A) and approved by the BOA Special Master on February 11, 2019, in accordance with the Zoning Code and Rules of Procedure. As an agreement was reached, no quasi-judicial hearing was required before the BOA Special Master.

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<sup>1</sup> At the March 12, 2019 City Commission meeting, the City Commission in Resolution No. 2019-83 approved the encroachment request for new signage in the City's right-of-way at the Cartagena Circle entrance consisting of two stone monuments – one reading "Cocoplum" and one reading "The Islands of Cocoplum," and re-approved the existing encroachment, as originally approved in Resolution No. 2013-06. In the alternative and provided the existing encroachments are removed, the City Commission approved the encroachment consisting of a monument sign, installation of wing walls, and pavers at the base of the Cocoplum Road Bridge at the intersection of Cocoplum Road and Vera Court, in the City's right-of-way.

On February 19, 2019, Cocoplum 1, as an affected party, filed a BOA appeal objecting to the terms of the Settlement Agreement. In accordance with the Zoning Code and Rules of Procedure, the BOA appeal will be heard by the City Commission. According to Section 3-606(D), the appeal to the City Commission is to be based on the record, not de novo, and no additional testimony shall be taken. However, the rules do not contemplate the procedural scenario that bore out in this case and which resulted in Cocoplum 1 not having the opportunity to have a quasi-judicial, de novo public hearing with the BOA Special Master. For this reason and to ensure that due process is properly provided and that all parties have a full opportunity to be heard, the City Commission should hear the appeal as part of a quasi-judicial, de novo, hearing<sup>2</sup>. Pursuant to Section 2-301 of the Zoning Code, the BOA “is a design review administrative board created to ensure that the City’s architecture meets the design review standards of the Zoning Code, is consistent with the City’s regulations, and to preserve the traditional aesthetic character of the community.” Accordingly, the scope of any BOA appeal and hearing is limited to design review and aesthetic considerations.

This opinion is issued pursuant to Sections 2-252(e)(1) and (8) of the City Code and Section 2-702 of the Zoning Code, granting the City Attorney’s Office the authority to issue opinions and interpretations on behalf of the City.

March 2019

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<sup>2</sup> This recommendation is based on the specific facts surrounding this matter and does not create any precedent for future BOA appeals.

**CITY OF CORAL GABLES**  
CITY ATTORNEY'S OFFICE

OPINION REGARDING BOARD OF ARCHITECTS (BOA) APPEAL  
RE COCOPLUM ENTRANCE FEATURES

On August 16, 2018, the Islands of Cocoplum Homeowners Association, Inc. (Cocoplum 2) submitted plans (AB-18-04-3802) to the Board of Architects (BOA) for modification to entrance features located in the City's right-of-way at the intersection of Cocoplum Road and Los Pinos Blvd. The BOA provided some general comments and deferred the item. On January 10, 2019, a set of revised plans that included the replacement of the entrance features at Cartagena Circle (the entrance of Cocoplum) in the City's right-of-way, were presented to the BOA and resulted in a denial by the board. The Cocoplum Civic Association, Inc. (Cocoplum 1), along with counsel, appeared at the BOA meetings where Cocoplum 2 presented the plans and made legal arguments regarding the propriety of the encroachments in the City's right-of-way.<sup>1</sup>

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<sup>2</sup> This recommendation is based on the specific facts surrounding this matter and does not create any precedent for future BOA appeals.

Accordingly, the scope of any BOA appeal and hearing is limited to design review and aesthetic considerations.

This opinion is issued pursuant to Sections 2-252(e)(1) and (8) of the City Code and Section 2-702 of the Zoning Code, granting the City Attorney's Office the authority to issue opinions and interpretations on behalf of the City.

March 2019

## Paulk, Enga

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**From:** Ramos, Miriam  
**Sent:** Thursday, March 21, 2019 10:18 AM  
**To:** Paulk, Enga  
**Cc:** Suarez, Cristina  
**Subject:** Cocoplum BOA opinion  
**Attachments:** opinion - cocoplum BOA appeal.docx  
  
**Importance:** High

Enga, please format and publish ASAP and then email to me. I will head up to initial before going to my 10:30.

Thanks,

*Miriam Soler Ramos, Esq., B.C.S.*

*City Attorney*

*Board Certified by the Florida Bar in*

*City, County, and Local Government Law*

City of Coral Gables

405 Biltmore Way, 2<sup>nd</sup> Floor

Coral Gables, FL 33134

(305) 460-5218

(305) 460-5084 direct dial



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