

To: Craig Leen

From: Holland & Knight LLP

Date: April 20, 2015

Re: Whether the City of Coral Gables has the legal authority to adopt an ordinance to supply affordable housing to a discrete class of professionals, with a special emphasis on teachers

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This memorandum is provided in response to your request for a legal opinion on whether the City of Coral Gables may enact zoning ordinances to increase the supply of affordable housing for a discrete class of professionals with a special emphasis on teachers. In short, this memorandum advises that the City may enact such ordinances.

The City of Coral Gables has broad authority to enact housing ordinances to promote affordable housing. Specifically, Florida statute § 166.04151 empowers the City to “adopt and maintain in effect any law, ordinance, rule, or other measure” to increase “the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances.”

The legal test for determining whether such an ordinance is valid is whether the ordinance is substantially related to a legitimate governmental purpose. *See Kuvin v. City of Coral Gables*, 62 So. 3d 625, 633 (Fla. 3d DCA 2010). For example, in *Kuvin v. City of Coral Gables* the Third District Court of Appeals found that the City’s ordinance prohibiting the parking of trucks and trailers in public places overnight was valid because the ordinance preserved the “unique aesthetic qualities of the city” and therefore furthered a legitimate governmental purpose. *Id.*

Similarly here, the City’s enactment of an ordinance to provide affordable housing to a discrete class of professionals with a special emphasis on teachers furthers a legitimate governmental purpose by enabling the City to attract and retain professionals who deliver key public goods, such as education. Accordingly, the City’s ordinance would be legally valid because the ordinance is substantially related to a legitimate governmental purpose.

Further, under Florida law, the City’s zoning ordinances are *presumed* valid and must be upheld unless the ordinances bear no substantial relation to any legitimate societal policies or are clearly arbitrary exercises of the City’s police power. *Id.* at 632. As a result, the City enactment of an ordinance to provide affordable housing to a discrete class of professionals with a special emphasis on teachers is presumptively valid and would likely be upheld in a court of law.