

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Friday, August 19, 2016 10:37 AM
To: Sanchez, Rodzandra (COE)
Subject: FW: Thomas Pepe, City Attorney, City of South Miami (Exploitation) INQ 16-201

[INQ 16-201 Pepe](#)

From: Diaz-Greco, Gilma M. (COE)
Sent: Friday, August 19, 2016 9:48 AM
To: Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>
Cc: Centorino, Joseph (COE) <CENTORI@miamidade.gov>; Murawski, Michael P. (COE) <MURAWSK@miamidade.gov>; Perez, Martha D. (COE) <perezmd@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>
Subject: Thomas Pepe, City Attorney, City of South Miami (Exploitation) INQ 16-201

Dear Mr. Pepe:

You have inquired whether the City of South Miami may expend public funds to promote a charter change to the City of South Miami Charter which is subject to voter approval by the South Miami electorate. You also asked if a City Commissioner may promote the item from the dais during commissioner remarks.

With respect to the County Ethics Code, the only Ethics Code provision that would conceivably apply would be the prohibition against Exploitation of Official Position, Section 2-11.1(g) of the Miami-Dade Code of Ethics, which would cover the improper use of public funds to promote a political agenda.

We also refer you to Sections 106.113 (2) and (3), Florida Statutes which address expenditures by local governments and provide:

(2) A local government or a person acting on behalf of Local government may not expend or authorize the expenditure of, and a person or group may not accept, public funds for a political advertisement or electioneering communication concerning an issue, referendum, or amendment, including any state question, that is subject to a vote of the electors. This subsection does not apply to an electioneering communication from a local government or a person acting on behalf of a local government which is limited to factual information.

(3) With the exception of the prohibitions specified in subsection (2), this section does not preclude an elected official of the local government from expressing an opinion on any issue at any time.

Our reading of this State Statute is that it would prohibit the expenditure of City funds for political advertisement or electioneering communications related to a charter change which is subject to voter approval by the South Miami Electorate. However, it would not appear to preclude a city commissioner from expressing his or her opinion on this matter at any time. Please be aware, however, that this agency does not have authority to issue binding opinions concerning the interpretation of State of Florida statutes or to enforce such statutes. For a definitive and binding opinion concerning the interpretation of any State statute regarding elections, you should request such opinion from the Division of Elections of the Florida Department of State.

Please contact us if we may be of further assistance.

Best regards,

Gilma (Mimi) Diaz-Greco
Staff Attorney



Miami-Dade Commission on Ethics and Public Trust
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Miami, FL 33130
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From: Thomas Pepe [<mailto:tpepe@southmiamifl.gov>]
Sent: Thursday, August 11, 2016 4:15 PM
To: Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>
Subject: RE: Ethical Question re Promotion of political agenda

The charter change is subject to a voter approval by South Miami electorate. I anticipate that funds might be expended to use City Hall facilities for workshops (which would be attended by City paid IT staff, etc.), and there might be the publication and delivery costs of flyers and/or brochures, including mailings and hand delivery, etc. One of the commissioners may promote the item from the dais during commissioner remarks, etc.

Thank you.

Thomas F. Pepe, City Attorney
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City, County and Local Government Law*
City of South Miami
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From: Diaz-Greco, Gilma M. (COE) [<mailto:GDIAZGR@miamidade.gov>]
Sent: Thursday, August 11, 2016 3:59 PM
To: Pepe, Thomas F. (TPepe@southmiamifl.gov) <TPepe@southmiamifl.gov>
Subject: FW: Ethical Question re Promotion of political agenda

Mr. Pepe:

A Couple of questions:

- Is the charter change subject to a vote by South Miami electorate?
- What will the funds be expended for? Advertisement or electioneering communications?

Please advise and thanks.

Gilma (Mimi) Diaz-Greco
Staff Attorney



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From: Thomas Pepe [<mailto:tpepe@southmiamifl.gov>]
Sent: Wednesday, August 03, 2016 11:23 AM
To: Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>
Subject: RE: Ethical Question re Promotion of political agenda

Thank you.

Thomas F. Pepe, City Attorney
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From: Diaz-Greco, Gilma M. (COE) [<mailto:GDIAZGR@miamidade.gov>]
Sent: Wednesday, August 3, 2016 10:21 AM
To: 'Thomas Pepe' <tpepe@southmiamifl.gov>
Subject: RE: Ethical Question re Promotion of political agenda

Mr. Pepe:

I will research this and get back to you.

Best regards,

Gilma (Mimi) Diaz-Greco
Staff Attorney



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From: Thomas Pepe [<mailto:tpepe@southmiamifl.gov>]
Sent: Tuesday, August 02, 2016 9:48 AM
To: Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>
Subject: Ethical Question re Promotion of political agenda

I believe that I read somewhere that the City Commission cannot promote a political agenda, such as using public funds to promote a charter change that is being proposed by the City Commission. Is that a conflict of interest or a misuse of public funds? Do you know of the law that would prohibit such action?

Thomas F. Pepe
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