

Diaz-Greco, Gilma M. (COE)

From: Pepe, Thomas F. <TPepe@southmiamifl.gov>
Sent: Friday, December 27, 2013 2:53 PM
To: Centorino, Joseph (COE)
Cc: Diaz-Greco, Gilma M. (COE); Steven J. Alexander
Subject: RE: INQ - Thomas Pepe, City Attorney, City of South Miami (political debates in City Hall)

Thank you for your prompt response.

Very truly yours,

Thomas F. Pepe

City Attorney
City of South Miami
1450 Madruga Avenue, Ste 202,
Coral Gables, Florida 33146
Tel: (305) 667-2564
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From: Centorino, Joseph (COE) [CENTORI@miamidade.gov]
Sent: Friday, December 27, 2013 2:09 PM
To: Pepe, Thomas F.
Cc: Diaz-Greco, Gilma M. (COE)
Subject: [BULK] INQ - Thomas Pepe, City Attorney, City of South Miami (political debates in City Hall)

Mr. Pepe,

You have inquired regarding whether there is a prohibition against permitting a group, without charge, to hold political debates at City Hall which would be open to all candidates for City Office, and also whether this might be affected if the group sponsoring the event had a political agenda that might run counter to the agenda and opinions of one or more of the candidates.

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 one's public office to promote a political candidate or agenda, which might include the use of public facilities in such an effort. Section 104.31, Florida Statutes would also prohibit the use of one's official authority to influence an election. Other than that fairly extreme example, this is not an issue that falls squarely within our Code of Ethics so this response is not likely one

that would lead to a binding decision by this agency. Nonetheless, I will attempt to provide you with some guidance in the matter that may assist you in advising your city government.

It is not uncommon for permission to be provided to a private group to utilize a public building for its own purposes. Generally speaking, where this is done by a policy that permits the rental of a public building to any private group at a fixed rental that is charged to all such groups, there is no problem with this practice. Just be aware that if the practice of permitting the rental of City Hall for this purpose to one group, that may necessitate that it be permitted for any group under the same conditions.

When it comes to the sponsorship of candidate forums or other such open public events which do not involve the promotion of any private or political agenda, but involve the exercise of free speech in a forum open to all participating candidates without limiting the views that may be expressed therein, these events are also often held in public buildings. If there is a policy in place in the City that would permit such events to take place, and the policy is applied uniformly to all groups who may wish to utilize the space for such a purpose, then I do not think there is anything that would prohibit such use, provided that no other law is broken in the process. It is my impression, however, that these types of events are generally sponsored by legitimate non-profit groups such as Chambers of Commerce, Neighborhood Organizations, or civic groups like the League of Women Voters, that do not promote any overt political agenda and, in fact, are prohibited from doing so. Permitting a group with a political agenda would likely raise concerns regarding whether there are public funds or public resources being spent to advocate a political viewpoint or candidate that would run afoul of the State election code.

Section 106.113(2), Florida Statutes, provides that, "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." Additionally, Section 106.15(4), Florida Statutes, provides that "No person shall make and no person shall solicit or knowingly accept any political contribution in a building owned by a governmental entity." Therefore, at a minimum, any group that is utilizing a public building to sponsor a debate would be required to exercise strict vigilance to insure that the purpose of the forum is to disseminate candidate views to the general public rather than to favor or endorse any view or candidate, and that no candidate should be permitted to solicit or accept campaign contributions during the forum or at any time within the public building.

Given that the City Commission of the City of South Miami maintains control over its City Hall premises, it would be wise to discuss with the Commission members the formulation of a policy that would apply to all such events. I hope that this has proven helpful to you in advising the Commission. Please feel free to call me should you have any questions.

Sincerely,
Joseph M. Centorino
Executive Director and General Counsel
305-579-2594

From: "Pepe, Thomas F." <TPepe@southmiamifl.gov>
Date: December 27, 2013 at 11:41:38 AM EST
To: "Frigo, Victoria (COE)" <FRIGOV@miamidade.gov>
Subject: Re Memo on Campaigning etc.

Is the City prohibited from allowing a group, without charge, to hold political debates at City Hall which would be open to all candidates for City Office? If no, would your opinion change if this group has its own political agenda or opinions that may run counter to the agenda and opinions of one or more of the candidates.

Very truly yours,

Thomas F. Pepe

City Attorney
City of South Miami
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From: Steven J. Alexander
Sent: Friday, December 27, 2013 11:02 AM
To: Pepe, Thomas F.
Subject: FW: Memo on Campaigning etc.

Per your request

Steven Alexander
City Manager
City of South Miami

From: <Ramos>, "Miriam S. (COE)" <MSRAMOS@miamidade.gov>
Date: Friday, December 27, 2013 at 10:17 AM
To: Steve Alexander <salexander@southmiamifl.gov>
Subject: Memo on Campaigning etc.

Mr. Alexander,

Pursuant to your request, I am attaching the memorandum we issued regarding campaign activities which includes the use of public facilities. If this is not what you are looking for, please let me know.

Sincerely,

Miriam S. Ramos, Esq.
Deputy General Counsel