



To: Walter Foeman; Billy Urquia

From: Bridgette Thornton Richard, Deputy City Attorney for the City of Coral Gables

Approved: Craig E. Leen, City Attorney for the City of Coral Gables 

RE: Legal Opinion Regarding Revised Legal Opinion In Response To 12/26/2012 Request For Advisory Opinion: Residency Requirement

Date: January 4, 2013

In response to your December 26, 2012 Request for Advisory Opinion: Residency Requirement, it is the City Attorney's position that the City Clerk's role regarding qualification of candidates is ministerial. Indeed, Section 10(a) of the City Charter, states that "[t]he City Commission shall be the judge of the election and qualification of its own members." City of Coral Gables Charter, § 10(a) (emphasis added). Thus, under the City Charter the commission has the authority to "judge" the qualifications of its members- not the Clerk. This conclusion is also buttressed by Florida Statutes § 99.061(7)(c). Although Section 99.061(7)(c)'s applicability is limited to federal, state and multicounty district office elections (not municipal elections), it is instructive in that it reflects the Florida Legislature's similar determination that the "[t]he filing officer performs a ministerial function in reviewing qualifying papers ... [and that] [t]he filing officer may not determine whether the contents of the qualifying papers are accurate." As a result, based upon the City of Coral Gables Charter and instructive indication from Florida statutory law, it is not the City Clerk's role to evaluate the qualifications of a candidate or the accuracy of a candidate's qualification papers. Thus, as long as a prospective candidate files the required qualification papers and/or fees, then the Clerk's Office should place that individual's name on the ballot. Moreover, in accordance with the City Charter, any challenge to a candidate's qualification should be resolved by the City Commission and/or a court of law – not the City Clerk.

Finally, please note that this opinion does not obviate a prospective candidate's need to comply with the City Charter and/or Florida law's qualification requirements, see e.g. Fla. Stat. § 99.012 et seq., but rather, this opinion is limited to an interpretation of the Clerk's role in the qualification process.

Hernandez, Cristina

From: Leen, Craig
Sent: Tuesday, February 19, 2013 11:37 AM
To: Hernandez, Cristina
Subject: FW: Revised Legal Opinion In Response to 12/26/12 Request for Advisory Opinion: Residency Requirement
Attachments: City Clerk Candidate Residency Requirements - Response to Legal Advisory Request Dated 12 26 12.pdf

Please place in opinion folder.

Craig E. Leen
City Attorney
City of Coral Gables
405 Biltmore Way
Coral Gables, Florida 33134
Phone: (305) 460-5218
Fax: (305) 460-5264
Email: cleen@coralgables.com

From: Thornton Richard, Bridgette
Sent: Friday, February 15, 2013 12:36 PM
To: Foeman, Walter
Cc: Hernandez, Cristina; Leen, Craig; Figueroa, Yaneris; Franqui, Susan; Osle, Zilma
Subject: RE: Revised Legal Opinion In Response to 12/26/12 Request for Advisory Opinion: Residency Requirement

I just realized that the opinion I sent you was dated 2012 not 2013, so, attached is the opinion with the corrected date – 2013. My apologies.

Bridgette N. Thornton Richard
Deputy City Attorney for the City of Coral Gables
405 Biltmore Way, 2nd Floor
Coral Gables, FL 33134
Tel: (305) 460-5084
Fax: (305) 476-7795

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From: Foeman, Walter
Sent: Friday, February 15, 2013 10:32 AM

To: Thornton Richard, Bridgette
Subject: RE: Revised Legal Opinion In Response to 12/26/12 Request for Advisory Opinion: Residency Requirement

Thank you.

From: Thornton Richard, Bridgette
Sent: Friday, February 15, 2013 10:16 AM
To: Foeman, Walter
Cc: Leen, Craig; Franqui, Susan; Hernandez, Cristina; Osle, Zilma; Figueroa, Yaneris
Subject: RE: Revised Legal Opinion In Response to 12/26/12 Request for Advisory Opinion: Residency Requirement

Walter,

The PDF version of the legal opinion is attached to this email. Please let me know if you require anything else or have any further questions and/or concerns.

Thanks!
Bridgette

Bridgette N. Thornton Richard
Deputy City Attorney for the City of Coral Gables
405 Biltmore Way, 2nd Floor
Coral Gables, FL 33134
Tel: (305) 460-5084
Fax: (305) 476-7795

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From: Foeman, Walter
Sent: Friday, January 04, 2013 12:38 PM
To: Thornton Richard, Bridgette
Cc: Leen, Craig
Subject: RE: Revised Legal Opinion In Response to 12/26/12 Request for Advisory Opinion: Residency Requirement

Thanks.

From: Thornton Richard, Bridgette
Sent: Thursday, January 03, 2013 3:17 PM
To: Foeman, Walter
Cc: Leen, Craig; Figueroa, Yaneris; Franqui, Susan; Osle, Zilma; Hernandez, Cristina
Subject: Revised Legal Opinion In Response to 12/26/12 Request for Advisory Opinion: Residency Requirement

Walter,

In response to your December 26, 2012 Request for Advisory Opinion: Residency Requirement, it is the City Attorney's position that the City Clerk's role regarding qualification of candidates is ministerial. Indeed, Section 10(a) of

the City Charter, states that “[t]he City Commission shall be the judge of the election and *qualification* of its own members.” City of Coral Gables Charter, § 10(a) (emphasis added). Thus, under the City Charter the commission has the authority to “judge” the qualifications of its members — not the Clerk. This conclusion is also buttressed by Florida Statutes § 99.061(7)(c). Although Section 99.061(7)(c)’s applicability is limited to federal, state and multicounty district office elections (not municipal elections), it is instructive in that it reflects the Florida Legislature’s similar determination that the “[t]he filing officer performs a ministerial function in reviewing qualifying papers . . . [and that] [t]he filing officer may not determine whether the contents of the qualifying papers are accurate.” As a result, based upon the City of Coral Gables Charter and instructive indication from Florida statutory law, it is not the City Clerk’s role to evaluate the qualifications of a candidate or the accuracy of a candidate’s qualification papers. Thus, as long as a prospective candidate files the required qualification papers and/or fees, then the Clerk’s Office should place that individual’s name on the ballot. Moreover, in accordance with the City Charter, any challenge to a candidate’s qualification should be resolved by the City Commission and/or a court of law — not the City Clerk.

Finally, please note that this opinion does not obviate a prospective candidate’s need to comply with the City Charter and/or Florida law’s qualification requirements, *see e.g.* Fla. Stat. § 99.012 *et seq.*, but rather, this opinion is limited to an interpretation of the Clerk’s role in the qualification process. Please let me know if you have any further questions or concerns.

Thanks,

Bridgette N. Thornton Richard
Deputy City Attorney for the City of Coral Gables
405 Biltmore Way, 2nd Floor
Coral Gables, FL 33134
Tel: (305) 460-5084
Fax: (305) 476-7795

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To: Walter Foeman, City Clerk

From: Bridgette N. Thornton Richard, Deputy City Attorney

RE: Revised Legal Opinion In Response to 12/26/12 Request for Advisory Opinion:
Residency Requirement

Date: January 4, 2013

Mr. Foeman:

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