

COMMISSION MEMORANDUM

TO: Mayor Dan Gelber and Members of the City Commission
Alina T. Hudak, City Manager

FROM: Rafael A. Paz, City Attorney



DATE: April 28, 2023

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2 "ADMINISTRATION", ARTICLE VII "STANDARDS OF CONDUCT", AT DIVISION 5 "CAMPAIGN FINANCE REFORM", SECTIONS 2-487 THROUGH AND INCLUDING 2-490 THEREOF TO PROHIBIT CANDIDATES FOR CITY ELECTED OFFICE AND MEMBERS OF THE CITY COMMISSION FROM SOLICITING VENDORS, REAL ESTATE DEVELOPERS AND THEIR LOBBYISTS FOR CONTRIBUTIONS TO ELECTIONEERING COMMUNICATIONS ORGANIZATIONS THAT EXPEND FUNDS RELATED TO CANDIDATES FOR CITY ELECTED OFFICE, AND FURTHER ESTABLISHING DISCLOSURE REQUIREMENTS OF SUCH CITY CANDIDATES AND CITY COMMISSION MEMBERS FOR THEIR SOLICITATION OF CONTRIBUTIONS FOR POLITICAL COMMITTEES AND ELECTIONEERING COMMUNICATIONS ORGANIZATIONS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

The proposed ordinance, sponsored by Mayor Dan Gelber and Commissioner Steven Meiner, is submitted for consideration on First Reading at the April 28, 2023 City Commission meeting.

The City's existing campaign finance laws are a key component of the City Commission's efforts to promote ethics and public confidence in elected officials and candidates for elected office.

Among other restrictions, the City's existing campaign finance laws prohibit a candidate for City elected office and/or a member of the City Commission, from soliciting certain City vendors, real estate developers (as defined in the City Code), and their respective lobbyists (collectively, "Prohibited Donors"), for a contribution for a candidate, campaign committee of a candidate, or a political committee that supports or opposes candidates for City elected office.

The City's campaign finance laws, however, do not currently cover solicitations made to Electioneering Communications Organizations (ECOs). ECOs are recognized under Florida law as a type of group (other than a political party, affiliated party committee, or political committee), whose election-related activities are limited to making expenditures for certain "electioneering communications" within a specified period prior to any election, i.e., communications which may refer to a candidate for office without expressly advocating for election or defeat of the candidate.

Accordingly, the proposed Ordinance seeks to close the "loophole" with respect to solicitations for ECOs, and prohibit candidates for City elected office and members of the City Commission

from soliciting Prohibited Donors for contributions to ECOs that expend funds related to candidates for City elected office, in the same manner as such solicitations are currently prohibited for political committees.

The proposed Ordinance also requires candidates for City elected office and members of the City Commission to register with the City Clerk, prior to commencing solicitation activities for contributions to political committees or ECOs, e.g., for those solicitations that are not otherwise prohibited under the City Code. In addition, the proposed Ordinance requires disclosure to the City Clerk in the event any agency with jurisdiction, such as the Miami-Dade County Ethics Commission, issues a letter of instruction or other finding of a violation of any solicitation requirement of the City Code or Miami-Dade County Code.

If approved on first reading on April 28, 2023, we anticipate that second reading of the proposed ordinance will be noticed for the May 17, 2023 City Commission meeting.

RAP/ag