



City of Coral Gables
CITY COMMISSION MEETING
November 14, 2017

ITEM TITLE:

A Resolution by the City Commission of Coral Gables recognizing substantial concerns regarding the constitutionality of certain recent amendments to the Florida Statutes and directing staff to construe and apply those statutory provisions in a manner consistent with the First Amendment to the U.S. Constitution.

BRIEF HISTORY:

The Florida Legislature recently adopted certain changes to the Florida Building Code, codified as Section 553.79(20), Florida Statutes, which purport to preempt building, design, and sign restrictions by local governments to the extent those restrictions apply to two limited types of commercial messages: specifically, “signage advertising the retail price of gasoline” and displays that reflect the “corporate branding identity” of certain corporate franchises such as their trademarks and color patterns.

After analyzing this statute, City Attorney Craig Leen has issued a legal opinion which advises that these new statutory provisions appear to potentially violate the established U.S. Supreme Court case law that interprets the parameters of the First Amendment’s Free Speech Clause by impermissibly treating certain types of commercial signs, based on their content, better than all other signs, including non-commercial signs.

There is nothing in the text or legislative history of the statute to suggest that the Legislature actually intended to effectively eviscerate local sign codes by forcing local governments into the untenable position of either not enforcing any sign regulations whatsoever or else violating First Amendment case law by favoring certain commercial speech over all other speech including non-commercial speech.

Accordingly, this resolution directs staff to construe and apply section 553.79(20) of the Florida Statutes narrowly in a manner consistent with federal law.

Attachments

- 1. Draft Resolution**