

# CITY OF CORAL GABLES

## CITY ATTORNEY'S OFFICE

### MEMORANDUM

**To:** Mayor and City Commissioners

**From:** Cristina M. Suárez, City Attorney

**Cc:** City Manager, Deputy City Attorney, and Assistant City Attorneys

**Re:** Potential legal challenge to provisions of Florida Statutes § 112.3144(1)(d) that require municipal elected officials to file Form 6 financial disclosure forms

**Date:** January 18, 2023

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#### Financial Disclosure Requirement

During the 2023 legislative session, Senate Bill 774 was passed and codified at Laws of Florida 2023-09, amending Florida Statutes § 112.3144 to change the financial disclosure requirements applicable to all elected municipal mayors and elected members of the governing body of a municipality. As of January 1, 2024, such elected officials are now required to file a Form 6 financial disclosure which requires, among other things, disclosure of the specific amounts of an official's net worth, income, and asset values. Historically, municipal elected officials have been required to file the Form 1 which is a more limited financial disclosure and requires, among other things, disclosure of information related to sources of income, real property, intangible personal property, liabilities and interests in specified businesses, but does not include the specific amounts of an official's net worth, income, and asset values.

#### The Potential Lawsuit

The law firm of Weiss Serota has decided to file a lawsuit for declaratory and injunctive relief challenging the constitutionality of the new requirement, if at least ten municipalities sign on as plaintiffs.

The potential lawsuit would be based on Florida's constitutional right to privacy, which provides that "[e]very natural person has the right to be let alone and free from governmental intrusion into the person's private life except as provided herein," Fla. Const. Art. I, § 23 and the First Amendment to the United States Constitution, as well as Article I, Section 4 of the Florida Constitution, which protect freedom of speech, including the right to choose what to say and what not to say. On the basis of these constitutional principles, the lawsuit would assert, among other legal theories, that the imposition of Form 6 requirements at the municipal level represents an unwarranted intrusion into the privacy rights of municipal elected officials; unnecessarily risks the

safety of such officials (making them targets of, among other things, burglary, identity theft and extortion); and (c) will deter many otherwise qualified and interested citizens from running for office. Additionally, the potential lawsuit would assert that the imposition of new financial disclosure requirements upon municipal elected officials who were elected without such requirements violates due process, is fundamentally unfair, and violates fundamental constitutional rights.

Should the City wish to join as a plaintiff in the lawsuit, Weiss Serota will charge the City a flat fee, inclusive of attorneys' fees and costs, of \$10,000, for the litigation in the trial court. The filing of any appeals would require separate authorization.