

From: "Defillipo, Anthony" <Anthony.Defillipo@citynmb.com>
Date: June 14, 2021 at 12:42:14 PM EDT
To: "Ottinot,Hans" <Hans.Ottinot@citynmb.com>
Cc: "Sorey, Arthur" <Arthur.Sorey@citynmb.com>, Jose Arrojo <jose.arrojo@miamidade.gov>
Subject: legal opinion letter needed

Hans,

This is my request for a written legal opinion from your firm, as City Attorney, regarding the recent Publix \$100 Gift Card giveaway.

Article VII, Finance and Taxation, [Section 10](#), of [The Florida Constitution](#) specifically prohibits municipalities from giving, lending or using its taxing power to "aid any corporation, association, partnership or person."

In addition, in 1952 the Supreme Court of Florida ruled in State v. Town of North Miami (attached hereto), against the taking of private property, i.e., ad valorem taxes, "except when it will serve a public purpose." Two key points of this ruling are:

1. Our organic law prohibits the expenditure of public money for a private purpose. It does not matter whether the money is derived by ad valorem taxes, by gift, or otherwise. It is public money and under our organic law public money cannot be appropriated for a private purpose or used for the purpose of acquiring property for the benefit of a private concern. It does not matter that such undertakings may be called or how worthwhile they may appear to be at the passing moment.
2. [A municipal legislature] cannot authorize a municipality to spend public money or lend or donate, directly or indirectly, public property for a purpose which is not public.

Accordingly, it is my contention that the Publix \$100 Gift Card giveaway, which benefited only 1,000 residents out of the nearly 44,000 residents of North Miami Beach, constitutes the expenditure of public money for a private purpose, and thus, was an unlawful expenditure of our residents' tax dollars.

Therefore, please provide me with your written legal opinion by no later than Thursday, June 17, 2021 at 5:00 PM.

Very truly yours,

Mayor Anthony DeFillipo

cc: Arthur H. Sorey III
Jose Arrojo, Esq.