

From: "Defillipo, Anthony" <Anthony.Defillipo@citynmb.com>

Date: July 12, 2021 at 12:28:25 PM EDT

To: hans@ottinotlawpa.com

Cc: "Villard, Paule" <Paule.Villard@citynmb.com>, "Kramer, Barbara" <barbara.kramer@citynmb.com>, "Smukler, Fortuna" <Fortuna.Smukler@citynmb.com>, "Fleurimond, McKenzie" <McKenzie.Fleurimond@citynmb.com>, Daniela Jean <daniela.jean@citynmb.com>, "Joseph, Michael" <Michael.Joseph@citynmb.com>, "Sorey, Arthur" <Arthur.Sorey@citynmb.com>, "Howard, Willis P." <Willis.Howard@citynmb.com>, "Merzius, Gedel" <Gedel.Merzius@citynmb.com>, City Attorney Office <CityAttorneyOffice@citynmb.com>, jose.arrojo@miamidade.gov, Howard Rosen State Attorneys Office <HowardRosen@miamisao.com>, Attorney.General@myfloridalegal.com, Pat.Gleason@myfloridalegal.com
Subject: Re: Gift Card Giveaway

Hans,

Thank you for sending me the Florida Attorney General's information sheet entitled "Requesting an Attorney General Opinion."

While it may be your "opinion" that I am directing you to ask for an Informal Opinion from the Attorney General's Office due to "arbitrate a political dispute," nothing could be further from the truth. This is not about politics. It is about governing responsibility and legally.

As the Mayor of the City of North Miami Beach, I took an oath to legislate for the benefit of the taxpaying residents of our City, and it is my informed opinion that this "Gift Card Giveaway" is in violation of the Florida Constitution, which specifically prohibits municipalities from giving, lending or using its taxing power to "aid any corporation, association, partnership or person."

As I have informed you on more than one occasion, this \$100,000 expenditure of public money, which benefited only a small fraction of the nearly 44,000 residents who live in North Miami Beach, was an unlawful expenditure of public money for a private purpose. Furthermore, the decision to turn over 200 gift cards to a non-resident of the City of North Miami Beach to distribute as he saw fit, outside of the control of city officials, was an egregious violation of the law.

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.

On June 16, 2021, I asked for and received your attached written legal opinion regarding this matter. I strongly disagreed with your opinion. I then directed you to seek an advisory opinion from the Florida Attorney General's Office. You are now refusing to do so under the patently false assumption that I am asking the Attorney General to "arbitrate a political dispute."

Accordingly, I am directing you one last time to seek an advisory opinion from the Florida Attorney General within 24 hours of the date of this letter. Please copy me with your correspondence.

Mayor Anthony F. DeFillipo

Cc: Jose Arroyo, Esq.
Howard Rosen, Esq.
Attorney.General@myfloridalegal.com
Pat.Gleason@myfloridalegal.com

Thank you,

Mr. Anthony F. DeFillipo

Mayor,
City of North Miami Beach
305-582-0867