

Haydee S. Sera

Subject: FW: Governor's Order Preemptive Effect

From: Daniel J. Stermer <dstermer@westonfl.org>

Sent: Friday, April 03, 2020 8:13 AM

To: Jamie Alan Cole <JCole@wsh-law.com>; Don Decker <DDecker@westonfl.org>; Samuel S. Goren <SGoren@gorencherof.com>; Jacob G. Horowitz <JHorowitz@gorencherof.com>; Andrew Meyers <ameyers@broward.org>

Cc: Michael J. Ryan <mryan@sunrisefl.gov>; kkislan@sunrisefl.gov; Salamon, Richard <RSalamon@sunrisefl.gov>; Lubelski, Mark <MLubelski@sunrisefl.gov>

Subject: Fw: Places of Worship

See below just received from Governor's GC. . .



Daniel J. Stermer

Mayor

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From: Jacquot, Joe <Joe.Jacquot@eog.myflorida.com>

Sent: Friday, April 3, 2020 8:09 AM

To: Michael J. Ryan <mryan@sunrisefl.gov>; Daniel J. Stermer <dstermer@westonfl.org>

Subject: FW: Places of Worship

Mayors – good morning. I’m the Governor’s General Counsel and I’m happy to be helpful with the question below and any other questions you may have on the Executive Order. The Governor’s Order only restricts individuals by limiting their movement, except when those individuals are participating in an essential service or activity. The Order enforces this by law enforcement with a second degree misdemeanor on the individual. Further, Section 4 of the Order only preempts to the extent a local authority seeks to add to the essential list in the Governor’s Order.

The Governor’s Order does not do either of the following, and local authorities are not preempted in any way:

1. The Governor’s Order does not affect whether a local authority may close a business (or in other words, decide if a business is non-essential). That local enforcement would presumably be directly on the business itself.
2. The Governor’s Order does not dictate whether additional social distancing or group gathering requirements can be placed on essential services or essential activities. Local authorities can do so both on individuals and on businesses/organizations.

So yes you can use your own authority to close or restrict how any business/organization must comply with your codes. The Governor’s Order does not give a business/organization any “right” to avoid your codes.

Joe

From: Strum, Shane <Shane.Strum@eog.myflorida.com>

Sent: Friday, April 3, 2020 7:53 AM

To: Jacquot, Joe <Joe.Jacquot@eog.myflorida.com>; Lukis, Adrian <Adrian.Lukis@eog.myflorida.com>

Subject: FW: Places of Worship

Morning Joe,

Please see the email below from the Mayor of Sunrise and cc’d with the Mayor of Weston. Two large Broward County cities. Please call or email these two to help answer their question below.

Thanks.

Shane

From: Ryan, Michael <MRyan@sunrisefl.gov>

Sent: Friday, April 3, 2020 6:30 AM

To: Strum, Shane <Shane.Strum@eog.myflorida.com>

Cc: Daniel Stermer <dstermer@westonfl.org>

Subject: Places of Worship

Shane,

I wanted to reach out because I have been hearing the argument that we do not have a right to close or restrict places of worship. I disagree with that legal analysis in all respects.

The First Amendment says : "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;..." We are doing neither.

Our police powers to protect health, safety and welfare remain in tact. So, for instance, a new place of worship must comply with all building codes. If the roof is not up to code, they do not receive the CO and they cannot open. If after a storm, the building integrity has been degraded such that the building is not safe, we red-tag the building and no one can enter. In both situations, the law is clear - we have the right and the obligation to protect the health, safety and welfare of the community and there is no conflict with constitutional provisions.

This is the same analysis. Based upon proven science, these large gatherings are jeopardizing the health, safety and welfare. As a result, we feel very strongly not only can we restrict access, we have an obligation to do so based upon the science. Fortunately, most of the places of worship agree and are self-complying. Our issue is if we face a Tampa situation -- where now we would not be able to enforce restrictions or the fact that we have so many store-front places of worship -- combined with the upcoming holidays.

Thank you for considering this issue and I hope the Governor will reconsider or clarify EO 20-92.

Best,
Mike

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