

Charter plan would create unequal classes, says ethics chief

By LOU ORTIZ

The Miami-Dade County Charter Review Task Force's proposed amendment of the Citizens' Bill of Rights "would create two unequal classes of citizens," the executive director of the county's Ethics Commission says.

"The amendment creates a gaping loophole exempting municipal officials from the penalties if their cities happen to have existing charter provisions that provide for the filing of a civil lawsuit as the sole remedy for such violations," said Joseph M. Centorino in "a message" from the director on the commission's website.

"The Citizens' Bill of Rights is given primary status in the county's home-rule charter, appearing prior to Article I of that document," Mr. Centorino wrote. "It guarantees important rights to all county and municipal residents, including access to government, truth in government, the right to public hearing, adequate audits and financial disclosure."

Mr. Centorino said residents of Miami, Miami Beach, North Miami, North Miami Beach, Pinecrest, South Miami and Sunny Isles Beach would lose if the county commission allows the amendment on the November ballot.

Under the Home Rule Charter, which was adopted in 1957,



Photo by Maxine Ussdan

"This will, in effect, deny a remedy for a violation of the Citizens' Bill of Rights....," said Joseph Centorino.

the county electorate determines its form of government. Every five years, the county commission decides whether the charter needs revisions or changes and then appoints a task force to make recommend amendments.

If the commission agrees, task force recommendations for charter amendments go before

voters as ballot questions for approval.

The commission formed the current 20-member task force in March and it had until July 17 to present amendment recommendations to the commission.

The proposed amendment that excludes municipalities that have citizens' bill of rights was pushed by task force member

Hans Ottinot.

The amendment passed by a 9-2 vote and falls short of the two-thirds vote requirement of the commission to guarantee to place the item on the ballot.

The recommendation says "except in municipalities whose charters specifically provide that the Citizens' Bill of Rights shall be enforced in Circuit Court,

the Commission on Ethics" may enforce the rights "and impose any penalty authorized by the county code."

The Ethics Commission can dismiss complaints or impose a range of penalties, including admonitions and fines.

"Instead of gaining the benefit of ready access to the county Ethics Commission for relief, people residing in those municipalities will be forced to incur the expense and inconvenience of hiring an attorney and litigating the issue in circuit court," Mr. Centorino wrote.

"This will, in effect," he said, "deny a remedy for a violation of the Citizens' Bill of Rights to a citizen unable to afford the expense of litigation."

The commission is expected to take up the committee's recommendations during a special meeting Aug. 23.

State Sen. Rene Garcia of Hialeah, who chaired the task force, asked the county commission to consider placing on the ballot all proposed charter amendments that were passed by a simple majority.

Different entities chose task force members. Each of the 13 county commissioners appointed one. The mayor made an appointment, along with each mayor of the county's four largest cities: Miami, Hialeah, Miami Gardens and Miami Beach. The Miami-Dade League of Cities appointed two.

Miami voters won't see bevy of charter proposals this year

By MEISHA PERRIN

Proposed charter amendments put up a shorter battle at last week's Miami City Commission meeting, resulting in two resolutions failing and two being withdrawn.

The first proposed resolution that didn't pass would have placed on the ballot a measure to remove the exemption from the city charter that now allows Miami to convey or lease any city-owned property without complying with requirements of competitive bidding, fair return and referendum.

Because of that charter loophole, Miami isn't receiving fair market value for some of its most pristine property, according to Commissioner Frank Carollo.

An example of the loophole being used, according to Mr. Carollo, was for the heliport on Watson Island—the more

than 2 acres of waterfront property for which he said the city is not going to receive one penny for at least 30 to possibly 50 years.

But that, Chairman Francis Suarez said, was the commission's decision.

"I agree with your argument, I think you are making a very, very compelling argument," Mr. Suarez said to Mr. Carollo.

"I think the problem is that we had the ability as a commission to stop that from happening," he said. "We decided to allow that to happen—that was what the political body, the political will at the time, was."

And as a loophole, according to Mr. Suarez, it doesn't have to be used.

"We can prevent this exemption from being used, we have that authority," Mr. Suarez said. "Just because it is there doesn't mean we have to use it. We have

the power to deny it."

Though he didn't disagree completely with the proposed amendment, Mr. Suarez said he simply didn't have enough time to review it and make a responsible decision.

"When you change a charter, it is a fundamental change to your governing document that cannot be easily undone," Mr. Suarez said.

In the end, the resolution failed 2-3, supported only by Mr. Carollo and Michelle Spence-Jones.

The commissioners also denied a move to put on the ballot a charter amendment that would change the date of the city elections from odd years to even years to coincide with countywide elections in August—a denial that prompted Mr. Carollo to make a motion to withdraw the rest of the proposed charter amendments.

This proposed change would bring new commissioners in during budgeting, which would be way too hectic, according to Mr. Suarez, but would save the city upwards of \$1 million per election cycle, according to Mr. Carollo, who proposed the amendment.

The proposed amendment would also extend the term of current commissioners and Mayor Tomás Regalado by 10 months.

The resolution was denied 4-1, and the motion to withdraw the subsequent charter amendments, which dealt with the leasing of submerged lands and allowing for the recall of a mayor, passed 4-1.

"I think any charter amendments that we do it should be a 5-0 vote," Ms. Spence-Jones said, "because we should all be on the same page about what we're asking voters to do."

'Unconstitutional' realtor tax break passed 5-0

By MEISHA PERRIN

Despite one commissioner's claim that it is unconstitutional, the Miami City Commission last week passed an ordinance to exempt any licensed and operating real estate associate from the requirement to apply for an exemption from a local business tax, pay a local business tax or obtain a local business tax receipt.

The ordinance allows the city to be in accordance with state law, which Commissioner Marc Sarnoff, who voiced his opinion against the constitutionality of the ordinance in the last commission meeting, said is the only reason he voted yes this time around.

"I think this law classifies people differently," Mr. Sarnoff said. "While I under-

stand we are just trying to follow the Florida Legislature, because somebody had a good lobbyist up there and snuck something in a bill, doesn't mean that I think we should follow what they do."

But according to City Attorney Julie O. Bru, Florida legislators can in fact classify people differently under the constitution if the classifications are not intended to classify individuals according to race, religion, national origin or anything that would affect some fundamental right, as long as the legislature has a rational basis.

And real estate salespersons are not the only individuals who are exempt from the local business tax law. There are numerous exemptions, Ms. Bru said, including for veterans, charitable organizations and mobile home setup operations.

"You can't pick and choose how you are going to implement the state law," she said.

"As your city attorney, I would have to recommend that either you follow the state law or do away with the entire BTR [business tax] program."

Either way they vote, according to commission Chairman Francis Suarez, would leave the city at risk of a lawsuit.

"If we deny this, we will continue to charge the real estate industry—and we can't," Commissioner Frank Carollo said.

In the end, the commission, at Mr. Suarez's suggestion, voted unanimously to implement the ordinance with a sunset in one year so commissioners can see if other cities are challenged—and with an instruction to Miami's lobbying team to clarify the classification difference in Tallahassee.



Marc Sarnoff called the measure unconstitutional, then voted yes.