CAO 2015-070

To: Walter Foeman

From: Miriam S. Ramos, Deputy City Attorney for the City of Coral Gables

Approved: Craig E. Leen, City Attorney for the City of Coral Gables

RE: Legal Opinion Regarding Miami Today: Meeting Request Regarding Legal Advertising

Date: July 14, 2015

Sec. 50.011, F.S. sets out where legal notices may be published and states, in pertinent part:

"...a publication in a newspaper printed and **published** periodically **once a week or oftener**, containing at least 25 percent of its words in the English language, entered or qualified to be admitted and entered as **periodicals** matter at a post office in the county where published, for **sale to the public generally, available to the public generally** for the publication of official or other notices and customarily **containing information of a public character** or of interest or of value to the residents or owners of property in the county where published, or of interest or of **value to the general public**." (Amended in 1999 after AGO 96-44)

Sec 50.031, F.S. set out further, in pertinent part:

"...shall have been published for the prescribed period of time required for such publication, in a newspaper which at the time of such publication shall have been in existence for 1 year and shall have been entered as periodicals matter at a post office in the county where published, or in a newspaper which is a direct successor of a newspaper which together have been so published." (Amended in 1999 after AGO 96-44)

Some recent AG Opinions on the matter state as follows:

AGO 2012-11: "A newspaper which has not been published on a weekly or more often schedule for one year prior to the first publication of a legal notice would not qualify for publication of a legal notice pursuant to Chapter 50, Florida Statutes."

AGO 2002-70 "Publication of legal notices by a municipality must comply with the requirements of sections 50.011 and 50.031, Florida Statutes, which require, among other things, that the newspaper must be entered as periodical matter at the post office. A pending application to be entered as periodical matter would not satisfy the requirements of the statute."

AGO 96-44 "I am of the opinion that in light of the reclassification of "second-class" mail as "periodicals" mail by the United States Postal Service, effective July 1, 1996, eligibility for the "periodicals" postal category satisfies the requirement in sections 50.031 and 50.051, Florida Statutes, that legal notices and process be published in a newspaper entered as "second-class" mail matter at the post office."

Whether Miami Today qualifies will depend on the specifics of their publication schedule and whether they are considered a periodical by the post office; as I think it does fulfill the requirement of being available to the public generally and of being of interest/value to the general public.

Herbello, Stephanie

From: Ramos, Miriam
Sent: Friday, July 31, 2015 4:38 PM
To: Herbello, Stephanie
Subject: FW: Miami Today: Meeting Request regarding Legal Advertising

Miriam S. Ramos, Esq.
Deputy City Attorney
City of Coral Gables
405 Biltmore Way, 3rd Floor
Coral Gables, FL 33134
(305) 460-5218
(305) 460-5084 direct dial

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From: Ramos, Miriam
Sent: Tuesday, July 14, 2015 4:28 PM
To: Foeman, Walter
Cc: Leen, Craig; Figueroa, Yaneris
Subject: RE: Miami Today: Meeting Request regarding Legal Advertising

Dear Walter,

Sec. 50.011, F.S. sets out where legal notices may be published and states, in pertinent part:

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Please let me know if you have any questions.

Thanks,

Miriam S. Ramos, Esq.
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From: Foeman, Walter
Sent: Tuesday, July 14, 2015 2:20 PM
To: Ramos, Miriam
Subject: RE: Miami Today: Meeting Request regarding Legal Advertising

Miriam, there was a court ruling some years back in a case against Miami Beach wherein said municipality had advertised in the Neighbors, wherein the Court stated that the Neighbors was not a newspaper of general circulation. Do you have any recent case law or Attorney General's Opinion regarding criteria necessary to be a newspaper of general circulation?

From: Ramos, Miriam
Sent: Tuesday, July 14, 2015 2:05 PM
To: Foeman, Walter
Subject: Re: Miami Today: Meeting Request regarding Legal Advertising

I agree. I don't think it makes sense to pay to advertise with them at an additional cost.

Sent from my iPhone

On Jul 14, 2015, at 1:58 PM, Foeman, Walter <wfoeman@coralgables.com> wrote:

> Miriam, I have been ask by Miami Today to meet with a representative who seeks to obtain legal ads to be published in his newspaper. It is not a newspaper of general circulation for legal purposes.
> Only the Daily Business Review and the Miami Herald are, to the best of my knowledge. Please advise.