



WEISS SEROTA HELFMAN COLE & BIERMAN

AT THE CROSSROADS OF BUSINESS, GOVERNMENT & THE LAW

January 15, 2020

VIA U.S. Mail and E-Mail

Mr. Edgar Issler
P.O. Box 1310
Marco Island, FL 34146
edissler@comcast.net

**RE: Form and Technical Sufficiency of Petition for Ordinance Banning
Recreational Marijuana**

Dear Mr. Issler:

This law firm serves as the City Attorney for the City of Marco Island ("City"). On January 6, 2020, the City Clerk received your affidavit for a committee in support of a Marco Island initiative petition to enact an ordinance prohibiting recreational marijuana in Marco Island ("Committee"). Included in the Affidavit is the petition to be circulated by the Committee calling for the adoption of an ordinance banning recreational marijuana ("Petition"). On January 10, 2020, I issued an opinion finding the Petition technically insufficient. On January 13, 2020, you submitted a revised Petition ("Revised Petition"). In accordance with Section 6.03 of the City Charter ("Charter"), I have been asked to review the Revised Petition for form and technical sufficiency.

Section 6.02 of the Charter requires a petition to be of the following form:

- All papers shall be uniform in size and style and shall be assembled as one instrument for filing;
- Each signature shall be followed by the printed name and current street address of the person signing and the date on which the petition was signed; and
- The petition must contain or have attached thereto throughout its circulation, the full text of the ordinance proposed or sought to be reconsidered.

Additionally, pursuant to the Charter, the petition must include:

- Documentation forming a political action committee;
- An affidavit of 5 electors stating that they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in the proper form and specifying the names and addresses to which all notices to the committee must be sent; and
- The full text of the proposed initiative ordinance.

Section 6.03 of the Charter requires that the format and content of the petition conform to the requirements of general law for amending municipal charters, the general election laws, and the administrative rules for initiative petitions. The 2018 Initiative Petition Handbook and Section 1S-2.009 of the Florida Administrative Code ("FAC") require the following language be included in a petition:

- All information on this form, including your signature, becomes a public record upon receipt by the Supervisor of Elections.
- Under Florida law, it is a first-degree misdemeanor, punishable as provided in s. 775.082 or s. 775.08, Florida Statutes, to knowingly sign more than one petition for an issue. [Section 104.185, Florida Statutes]
- If all requested information on this form is not completed, the form will not be valid.

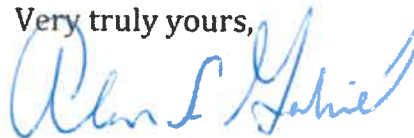
As noted above, the Charter also requires that the petition include a copy of the **full text** of the Ordinance and that the format and content of the petition conform to the requirements of general law for amending municipal charters, the general election laws, and the administrative rules for initiative petitions. The Ordinance, as proposed for enactment, must comply with the requirements of Section 106.161, Florida Statutes. Section 101.161(1), Florida Statutes, enumerates the technical requirements for a public measure placed on a ballot and mandates that where a public measure is submitted to the vote of the people, the ballot summary and the ballot title to appear on the ballot shall be embodied in the enabling ordinance. The Revised Petition and Ordinance includes the ballot title and summary and includes the language required under the FAC.



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Accordingly, for the reasons stated above, the Petition is technically sufficient. Pursuant to Section 6.03 of the Charter, the City Attorney is not permitted to comment on the legal sufficiency of the Petition. As the Ordinance has been submitted as an attachment to the Petition, we must refrain from commenting on the legal sufficiency of the Ordinance, including the substance of the explanatory statement/ballot question. As such, the City may advise the Committee to seek the opinion of the Collier County Supervisor of Elections regarding the legal sufficiency of the substance of the explanatory statement included in the Ordinance.

Very truly yours,



Alan L. Gabriel

cc: City Council
City Manager
City Clerk



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