


**CITY OF MIAMI**  
**OFFICE OF THE CITY ATTORNEY**  
**LEGAL OPINION - #14-002**

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**TO:** Todd B. Hannon, City Clerk  
**FROM:** Victoria Méndez, City Attorney   
**DATE:** November 21, 2014  
**RE:** Meetings Between Individual Charter Review Committee Members  
and Individual City Commissioners

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You have requested a legal opinion on the following question:

Whether individual members of the City of Miami Charter Review Committee may meet with individual City of Miami Commissioners to discuss committee matters outside of the sunshine.

**ANALYSIS**

Section 286.011, Florida Statutes (the “Sunshine Law”) applies to meetings of two or more members of the same board or commission when discussing some matter which foreseeably will come before the board or commission. See, Hough v. Stembridge, 278 So. 2d 288 (Fla. 2d DCA 1973); Sarasota Citizens for Responsible Government v. City of Sarasota, 48 So. 3d 755, 764-765 (Fla. 2010); Godheim v. City of Tampa, 426 So. 2d 1084, 1088 (Fla. 2d DCA 1983).

The Sunshine law does not apply to a meeting between individuals who are members of different boards provided that no delegation of decision-making authority has been made and neither member is acting as a liaison. Inf. Op. to McClash, April 29, 1992 (Sunshine Law generally not applicable to county commissioner meeting with individual member of metropolitan planning organization); AGO 87-34; AGO 99-55 (school board member meeting with member of advisory committee established by school board); AGO 97-52 (discussions between individual member of community college board of trustees and school board member regarding acquisition of property by school board).

Here, the Charter Review Committee is comprised of thirteen (13) members and a non-voting Chairman-Commissioner. The thirteen (13) members are appointed by the City Commissioners, the Mayor, and the City Manager. A committee member and a City Commissioner (other than the Commissioner-Chairman) are not members of the same board or committee. Thus, ordinarily, such meetings between the two outside of a publicly noticed meeting would not violate the Sunshine law. Inf. Op. to Dillener, January 5, 1990 (Sunshine Law not normally applicable to meeting of town council member with private citizens).

However, in this case, because committee members are appointed by City Commissioners, caution should be exercised in order to prevent committee members from being used as a liaison between City Commissioners. When such a person is acting as a conduit or liaison to express opinions on a matter coming at some time before the Board or Commission, it is a circumvention of the requirements of the Sunshine law. AGO 96-35 (“the Sunshine Law is implicated when a person other than a board member is used as a liaison among board members”).

For instance, a committee member cannot ask each City Commissioner to state his position on a specific matter that will foreseeably come before the City Commission at a public meeting, in order to provide the information to other members of the City Commission. See e.g., AGO 89-23 (1989); AGO 74-47 (city manager is not a member of the city council and thus may meet with individual council members; however, the manager may not act as a liaison for board members by circulating information and thoughts of individual council members); AGO 75-59 (director should refrain from calling each member of the board separately and asking each member to state his or her position on a matter which will foreseeably be presented for consideration to the entire board in open session).

Blackford v. School Board of Orange County, 375 So. 2d 578 (Fla. 5th DCA 1979) is illustrative of a Sunshine law violation due to meetings between board members and a liaison. There, a school superintendent met with individual members of the school board in private to discuss a controversial redistricting plan and avoid public outcry. The meetings were scheduled successively and in a short period of time and resulted in a final plan. The court held as follows:

we are convinced that the scheduling of six sessions of secret discussions, repetitive in content, in rapid-fire seriatim and of such obvious official portent, resulted in six de facto meetings by two or more members of the board at which official action was taken. As a consequence, the discussions were in contravention of the Sunshine Law. Further, the frank admission as to the reason for this modus operandi leads us to conclude that in effect “the (board) met in secret (and) used staff members as intermediaries in order to circumvent public meeting requirements.”

Finally, the Sunshine Law is to be construed “so as to frustrate all evasive devices.” Town of Palm Beach v. Gradison, 296 So. 2d 473, 477 (Fla. 1974). In Inf. Op. to Goren dated October 28, 2009, the Attorney General’s Office:

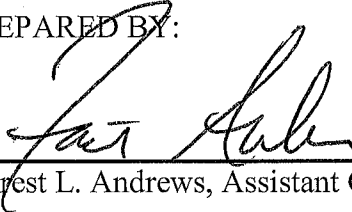
advised[d] the city to be cognizant of the potential that commissioners seeking clarification by follow-up with staff and staff responses provided to all commissioners might be considered a *de facto* meeting of the commissioners by using staff as a conduit between members of the commission.

**CONCLUSION**

Ordinarily, meetings between two members of different Boards or Commissions do not violate the Sunshine Law. However, caution should be exercised in order to prevent committee members from acting as a liaison between City Commissioners.

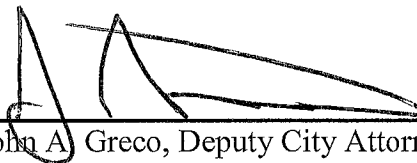
It is my opinion that members of the Charter Review Committee should avoid meeting with individual City Commissioners outside of the sunshine.

PREPARED BY:



Forrest L. Andrews, Assistant City Attorney

REVIEWED BY:



John A. Greco, Deputy City Attorney

cc: Honorable Mayor and Members of the City Commission  
Daniel J. Alfonso, City Manager

VM/JAG/FLA  
  
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