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May charitable organizations solicit donations in a public roadway?

FACTS

The Village Council of Sebawaing decided that it would no longer permit a person from a charitable organization, while standing in a public roadway, to solicit contributions from occupants of vehicles in the roadway. The state senator representing the district that included the village requested an opinion from the Attorney General as to whether charitable and civic organizations may solicit contributions from public roadways.

The Michigan Constitution provides that “except as otherwise provided in this constitution,” local units of government shall have reasonable control of their “highways, streets, alleys and public places.” Art 7, section 29. The Constitution further provides that each city and village has the power to adopt resolutions and ordinances relating to municipal concerns. Art 7, section 22. State statutes have been adopted permitting a city, township, or village to adopt by reference the Michigan Vehicle Code (MCL 257.1 to 257.923) and also the Uniform Traffic Code, promulgated by the State Police (MCL 257.951). Sebawaing had adopted both.

QUESTION

May a charitable or civic organization solicit donations in a public roadway?

ANSWER ACCORDING TO THE ATTORNEY GENERAL:

GENERAL: The Opinion of the Attorney General (OAG) outlined the applicable constitutional, statutory, and regulatory provisions. The OAG answered the question by examining the relevant provisions of the Motor Vehicle Code and also of the Uniform Traffic Code.

MAYBE. The Michigan Vehicle Code, MCL 257.676b(2) prohibits a person from using his or her body in a way that interferes with the normal flow of traffic on a public street unless authorized to engage in the activity. The OAG addressed certain statutory provisions that authorize persons to engage in activity in a street or highway, but disregarded those provisions as not applying to the facts as presented. The OAG stated that “it is reasonable to conclude . . .

that the presence of a person in a street requesting contributions from vehicle occupants would ordinarily . . . interfere with the normal flow of traffic...” The OAG continued, however, that “[w]hether this is true will depend upon the particular facts and circumstances.” The OAG also stated that it found no provision that a local unit of government had the authority to issue a permit to an organization to solicit contributions in the roadway.

NO. Rule 28.1713(1) of the Uniform Traffic Code, however, provides that a person “shall not stand in a roadway for the purpose of soliciting a ride, employment, or business from the occupant of any vehicle.” Finding that a person asking for contributions is “soliciting . . . business,” the OAG found that Rule 713 applied if the person was in the improved portion of the roadway.

Attorney General Opinion, 7291, July 29, 2016

[EDITOR’S NOTE: See “What is the Effect of a Michigan Attorney General Opinion on Local Government?” found on the Michigan Municipal League website. In addition, the League has materials related to “Adoption of Michigan Vehicle Code and Uniform Traffic Code” in its One Pager Plus Fact Sheets.]

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