


MEMORANDUM
CITY OF ST. PETERSBURG

TO: The Honorable Chair and City Council Members

FROM: Lynn Gordon, Legal Intern/Attorney 

DATE: February 18, 2009

RE: Public Feeding

Attached is a copy of the letter sent from the City Attorney's office to the Pinellas County Health Department ("Health Department") on December 20, 2007. The letter expressed concern over public feedings taking place in City parks and rights-of-way. Citing public health and safety concerns, the City requested that the Health Department inspect the feeding activities and take appropriate action to ensure that those persons serving food during these feeding events are following applicable state and county health laws and guidelines.

By letter dated January 9, 2008, a copy of which is attached, the Health Department responded to the City's letter. The Director, Dr. Claude M. Dharamraj stated that the Health Department has jurisdiction over a limited area of the food service industry pursuant to Florida Statutes. Dr. Dharamraj also stated that the Pinellas County Code gives the Health Department jurisdiction in permitting residential based living facilities and on a voluntary basis, religious organizations that have food offerings for members and guests. According to Dr. Dharamraj, that authority is limited to the facility and its premises. The Health Department's position is that it does not have the legal authority to pursue individuals who wish to conduct public feedings.

Dr. Dharamraj suggested that the City contact the Florida Department of Business and Professional Regulation ("DBPR") regarding regulating food handling and permitting at these public feedings. Joseph Perez, the DBPR district administrator, stated that the DBPR does not regulate public feeding because the DBPR does not feel that such activities fall under the statutory definition of a public food service establishment. This was confirmed by Charles Tunnicliff, an attorney for the DBPR, who said that public feeding is civic in nature and therefore not included in the definition of a public food service establishment.

The City Attorney's Office has been in contact with at least one other City who received the same response from the DBPR.

Therefore, it appears that neither the Health Department nor the DBPR is prepared to intervene in situations in which individuals are conducting public feedings within the City.



office of the city attorney
City of St. Petersburg
One Fourth Street North
St. Petersburg, FL 33701
P.O. Box 2842
St. Petersburg, FL 33731-2842
Telephone: 727-893-7401
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December 20, 2007

Dr. Claude Dharamraj
Pinellas County Health Department
205 Dr. Martin Luther King, Jr. Street North
St. Petersburg, FL 33701

Re: Feeding in City parks

Dear Dr. Dharamraj:

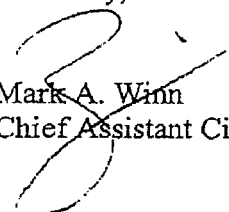
As you may know, various organizations and individuals are feeding members of the public from vehicles along the right of way and in parks located in the City of St. Petersburg. These public feedings take place with good intentions, however, we cannot determine whether the food has been prepared in facilities licensed or approved by your office and often the food does not appear to be properly stored for transport nor served at a location with sanitary facilities. On at least one occasion, a recipient of the food has become ill after consuming the food. I do not know whether a permit is required from your office for this activity but it does not appear that any of these organizations or individuals have health permits for these public feedings.

My review of the applicable Florida Statutes suggests that the enforcement of these type health laws rests solely with your Office and that the City does not have the authority to regulate in this area nor enforce these laws. It is my understanding that your office has been notified of this situation on at least one occasion by the St. Petersburg Police Department. I do not know what action was taken at that time but the safety of our citizens is a matter of concern so I am contacting you again.

In the interest of public health and safety, I am requesting that your office inspect these activities and take the appropriate action to ensure that those persons serving food during these public feedings are following the applicable state and county health laws and guidelines.

Please contact me if you have any questions or wish to discuss this matter further.

Sincerely,


Mark A. Winn
Chief Assistant City Attorney



Charlie Crist
Governor

Ana M. Viamonte-Ros, M.D., M.P.H.
State Surgeon General

PINELLAS COUNTY HEALTH DEPARTMENT

January 9, 2008

Mr. Mark Winn
Office of the City Attorney
City of St. Petersburg
One Fourth Street North
St. Petersburg, Florida 33701

Re: Feeding in City Parks

Dear Mr. Winn:

The Pinellas County Health Department's mission is to promote, protect and improve the health of all people in Pinellas County. We do this through the enforcement of statutes, rules and ordinances where applicable. However, there are three agencies that have jurisdiction over food service operations within the state. The Department of Health has jurisdiction over a limited area of the food service industry as defined by Florida Statute 381.0072. The Health Department also, as allowed by county ordinance, has jurisdiction in permitting residential based living facilities and on a voluntary basis religious organizations that offer food to their members and guests. This authority currently is limited to the licensed facility and its premises.

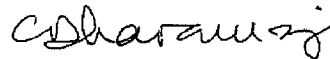
As you mentioned, a member of our staff did accompany officials from your city in the hope of gathering information as to the identities of the participants in this humanitarian effort. In most instances our staff could not associate any of these groups with a facility licensed by this agency. In some cases private citizens were found to be preparing and serving food from unknown locations. The Pinellas County Health Department does not have the legal authority to pursue these individuals in this undertaking.

The Department of Business and Professional Regulation, Division of Hotels and Restaurants is the agency with jurisdiction pursuant to Florida Statute, Chapter 509 to enforce food handling and licensure at these public feedings. The district administrator is Joseph Perez and may be contacted at (813) 356-1607.

The city may wish to consider establishing an ordinance requiring a license or permit in order to hold these activities on city property and/or right of ways. This would be a means of controlling where and how the food is prepared by requiring the participants to possess a valid license from the Department of Business and Professional Regulation, the Department of Health or the Department of Agriculture and Consumer Services. This would help to assure that the food is coming from an approved, licensed and inspected facility.

If you need further assistance in this matter please contact John Geisler or Charles Minor at (727)-507-4336.

Sincerely,



Claude M. Dharamraj, MD, MPH, FAAP
Director

CD/pal