Recreational Discharge of Firearms

Number: INFORMAL

Date: February 28, 2014

The Honorable Wifredo Gort
Chairman and City Commissioner, District 1
City Hall
3500 Pan American Drive
Miami, Florida 33133

Dear Chairman Gort:

Thank you for your letter of February 14, 2014, requesting an Attorney General's Opinion considering the authority of local governments to regulate outdoor firearm ranges in residential neighborhoods. Attorney General Bondi has asked me to respond to your letter.

This office has recently received several requests for consideration of this issue and I am enclosing a copy of our correspondence with the Mayor of the City of Sunrise, the Honorable Michael J. Ryan. As that letter states, it would be inappropriate for this office to comment on these issues in light of our current involvement in litigation dealing with the constitutionality of provisions of section 790.33, Florida Statutes.[1]

I am also enclosing copies of several Attorney General Opinions which have considered whether local governments, both counties and municipalities, may regulate the recreational discharge of firearms in residential areas. As the letter to Mayor Ryan notes, based on the language of the statutes and the clearly expressed legislative intent for adoption of section 790.33, Florida Statutes, previously issued Attorney General Opinions have concluded that local governments have no authority to regulate in the area of firearms.[2]

I trust that these informal comments will be helpful to you in advising your constituents and in working with legislative leaders to address your concerns.

Sincerely,

Gerry Hammond
Senior Assistant Attorney General

GH/tsh

Enclosures: Ops. Att'y Gen. Fla. 2011-20, 2011-17, 2008-34, 2005-40;
Inf. Op. to Gibson, dated August 6, 2008; Inf. Op. to Ryan,
dated February 25, 2014

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[1] *See* Department of Legal Affairs Statement Concerning Attorney General Opinions, available

by following the path: www.myfloridalegal.com / Legal Resources / AG Opinions / FAQs.

[2] *See* Ops. Att'y Gen. Fla. 11-20 (2011), 11-17 (2011), and 05-40 (2005). *And see* s. 1, Ch. 2011-109, Laws of Fla. (the language of preemption contained in s. 790.33[1], Fla. Stat., providing that the Legislature has determined to occupy 'the whole field' of firearms regulation is expansive). *See also National Rifle Ass'n of America, Inc. v. City of South Miami*, 812 So. 2d 504 (Fla. 3d DCA 2002). *Cf. Penelas v. Arms Technology, Inc.*, 778 So. 2d 1042, 1045 (Fla. 3d DCA 2001), *cert. denied, review denied*, 799 So. 2d 218 (Fla. 2001) (county's request for injunctive relief against firearm manufacturers and dealers found to be an attempt to regulate firearms and ammunition through the judiciary denied; power to legislate in area of firearm regulation belongs to the legislative branch).