

MUNICIPAL EXCESS LIABILITY JOINT INSURANCE FUND

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MEL LEGAL BULLETIN 18-29

Date: May 25, 2018

To: Fund Commissioners of Member Joint Insurance Funds

From: Fund Attorney, Dorsey & Semrau, LLC

Re: Be aware of inquiries about your solicitation ordinances

Attention: Beware of inquiries about your solicitation ordinances

Law firms are contacting towns about their solicitation ordinances and threatening litigation. If you receive one of these inquires, immediately seek the advice of your municipal attorney. Legal problems with these ordinances can lead to significant monetary awards against towns.

While municipalities are legally permitted to regulate canvassing and solicitation, these regulations cannot be so restrictive that they impede rights under the First and Fourteenth Amendments and similar guarantees of the New Jersey constitution.

In New Jersey Citizen Action v. Edison Twp., 797 F.2d 1250 (3d Cir. 1986), the Federal courts ruled that solicitation ordinances requiring fingerprinting or with curfews before 9:00 p.m. violated constitutional rights. Courts in other jurisdictions have also over turned solicitation ordinances because they were unduly burdensome or vested the licensing authority with unrestricted discretion. Plaintiffs in these cases won damages and attorney's fees.

Please contact your municipal to ensure that your hawking, peddling, canvassing and solicitation ordinances are constitutionally compliant. If necessary, suspend enforcement of problem provisions until the Governing Body can enact an amendment to address relevant case law.

Should you have any questions, please do not hesitate to contact the MEL Fund Attorney, Fred Semrau at 973-334-1900.

cc: Fund Executive Directors
Fund Professionals
Risk Management Consultants