



MEMORANDUM

TO: Acting Mayor, Chernoff
Commissioner Daniela Jean
Commissioner Fortuna Smukler
Commissioner McKenzie Fleurimond
Commissioner Michael Joseph
Commissioner Phyliss Smith

FROM: John R. Herin, Jr., Interim City Attorney

DATE: August 7, 2023

RE: Special Election to Fill Mayoral Seat Vacancy

On June 5, 2023, Governor DeSantis issued Executive Order 2023-118 (“Executive Order”), which states in part that: “Anthony F. DeFillipo II is suspended from the public office, which he now holds, to wit: Mayor of the City of North Miami Beach.” The Executive Order further states that: “Anthony F. DeFillipo II is prohibited from performing any official act, duty, or function of public office; from receiving any pay or allowance; and from being entitled to any of the emoluments or privileges of public office during **the period of this suspension, which period shall be from today until a further Executive Order is issued or as otherwise provided by law**”. (emphasis added) The Executive Order is attached.

The suspension of then Mayor DeFillipo by Governor DeSantis was pursuant to Section 112.51, *Fla. Stat.* which states:

“Whenever any elected or appointed municipal official is arrested for a felony or for a misdemeanor related to the duties of office or is indicted or informed against for the commission of a federal felony or misdemeanor or state felony or misdemeanor, **the Governor has the power to suspend such municipal official from office.**

The suspension of such official by the Governor **creates a temporary vacancy in such office during the suspension.** Any temporary vacancy in office created by suspension of an official under the provisions of this section shall be filled by a temporary appointment to such office for the period of the suspension. Such temporary appointment shall be made in the same manner and by the same authority by which a permanent vacancy in such office is filled as provided by law. If no provision for filling a permanent vacancy in such office is provided by law, the temporary appointment shall be made by the Governor. (emphasis added). Section 112.51 *Fla. Stat.* is attached.

Thus, under State law the Executive Order has created a “temporary vacancy” in the mayoral seat which will continue to exist under State law until such time as a “**temporary appointment shall be made in the same manner and by the same authority by which a permanent vacancy in such office is filled as provided by law.**” (emphasis added)

After receipt of the Executive Order, several Commissioners inquired if: (1) the “suspension” of Mr. DeFillipo by Governor created a “vacancy” of the mayoral seat; and (2) was the Governor going to appoint someone to fill the vacancy in the mayoral seat, and (3) if not, what was the process the City must follow to fill the vacancy? In response to this inquiry, I had a series of electronic and telephonic communications with the Governor’s Office of General Counsel to obtain a response to the Commissioners’ concerns. Based upon those verbal and written communications I informed the Commission through a series of emails that:

- (1) Yes, Mr. DeFillipo’s suspension created a vacancy in the mayoral seat; and
- (2) No, the Governor was not going to appoint someone to fill the vacancy in the mayoral seat; and
- (3) The process the City needed to follow to fill the vacancy in the mayoral seat was set forth in the City Charter¹. The emails between my office, the Governor’s Office of General Counsel, and the City Commissioners are attached.

The specific City Charter and City Code language addressing the mayoral seat vacancy is Section 4.5 of the Charter and Section 7-7 b. and c. of the City Code, which respectively state:

“Vacancies in elective offices of the City of North Miami Beach shall be filled by the City Commission pending the next general election, at which time an election to fill the vacancy shall be held for any remainder of the unexpired term. **Provided, however, that should any vacancy occur more than one year prior to the next general election, the Commission shall have no power to fill the same; it shall be filled by a special election to fill the vacancy for the unexpired term,** to be held not less than 35 days nor more than 90 days after such vacancy has occurred . . .”

“Vacancies in elective offices of the City shall be filled by the City Council pending the next election, at which an election to fill the vacancy shall be held for the unexpired term . . . Paragraph [b.] is conditioned, however, that **should any vacancy occur more than one (1) year prior to the next general election, the council shall have no power to fill the same; it shall be filled by a special election to fill the vacancy for the unexpired term,** . . .” (emphasis added).

Accordingly, since Mr. DeFillipo had more than one (1) year remaining on his term as Mayor at the time the mayoral seat vacancy occurred due to his suspension by the Governor, under the above City Charter and City Code provisions the City Commission has no power to fill the vacancy and it must hold a special election to fill the vacancy for the unexpired term.

Contemporaneous to the suspension of Mr. DeFillipo, the City Clerk was already engaged in electronic and telephonic communications with the Miami-Dade Supervisor of Elections to schedule a special election to fill the putative vacancy of Commissioner Joseph’s seat because of the actions taken by a majority of the City Commission at its meeting on May 16, 2023. That on-going discussion was expanded to include the mayoral vacancy. Initially, the Miami-Dade Supervisor of Elections informed the City

¹ This information was initially provided to the City Commission immediately after the Mayor’s arrest on May 31, 2023.

Clerk (and all other city clerks in the county) that no special election anywhere in Miami-Dade County would be scheduled while the Elections Department was engaged in “re-presenting” the entire county. Thereafter, in a series of electronic and telephonic communications with the City Clerk, the Miami-Dade Supervisor of Elections identified October 10, 2023 as the “target” date for the special election to fill the mayoral seat vacancy.² Thereafter, the City Clerk prepared a proposed Resolution that was put before the City Commission at its meeting of July 18, 2023, to set that date for the special election. That item was deferred until the August 15, 2023, City Commission meeting, and this opinion was requested.

The emails between the City Clerk and the Miami-Dade Supervisor of Elections Department are attached. Also, included are two recent emails from the Miami-Dade Supervisor of Elections Department informing the City Clerk of the anticipated cost of the special election and the two (2) “new” target dates for consideration and selection by the City Commission to conduct the required special election to fill the mayoral seat vacancy created by the suspension of Mr. DeFillipo by Governor DeSantis. Finally, the City Commission should be aware that if it fails to select a date and schedule the required special election it may open the City to litigation to compel the City Commission to schedule the special election as evidenced by the recent lawsuit filed by the ACLU Foundation of Florida against Governor DeSantis to compel him to schedule a special election to fill the vacancy in House District 118 created by the resignation of prior seat holder, Representative Juan Alfonso Fernandez-Barquin. See attached Miami Herald Article.

Conclusion

- In accordance with state law and the City Charter, there currently exists a vacancy in the mayoral seat of the City.
- In accordance with state law and the City Charter that vacancy must be filled by a special election set by the City Commission in coordination with the Miami-Dade Supervisor of Elections Department.
- The Miami-Dade Supervisor of Elections Department has provided as the proposed dates for the required special election Tuesday, November 7, 2023 (qualifying period would begin on Monday September 25th and end on Saturday September 30th midday), and Tuesday, December 5, 2023 (qualifying period would begin on Monday October 23rd and end on Saturday October 28th midday).
- The projected cost of the required special election is approximately \$67,000,00 +/- (if a run-off election is required the cost will double).
- Failure of the City Commission to schedule the required special election may expose the City to litigation.

² Commissioner Joseph’s putative removal from his seat was reversed by court order on June 13, 2023; accordingly, the need for a special election is only to fill the mayoral seat vacancy.

EXECUTIVE ORDER 23-118 & SECTION 112.51, *FLA. STAT.*

STATE OF FLORIDA

OFFICE OF THE GOVERNOR EXECUTIVE ORDER NUMBER 23-118 (Executive Order of Suspension)

WHEREAS, Anthony F. DeFillipo II is presently serving as Mayor of the City of North Miami Beach, Florida; and

WHEREAS, on May 31, 2023, Anthony F. DeFillipo II was charged by Information with three counts of Election-Unqualified Voter, each a third-degree felony in violation of section 104.15, Florida Statutes; and

WHEREAS, section 112.51, Florida Statutes, provides that the Governor may suspend from office any elected municipal officer who is informed against for the commission of a state felony; and

WHEREAS, it is in the best interests of the residents of the City of North Miami Beach, and the citizens of the State of Florida, that Anthony F. DeFillipo II be immediately suspended from the public office which he now holds, upon the grounds set forth in this Executive Order;

NOW, THEREFORE, I, RON DESANTIS, Governor of Florida, pursuant to section 112.51, Florida Statutes, find as follows:

A. Anthony F. DeFillipo II is, and at all times material was, the Mayor of the City of North Miami Beach, Florida.

B. The office of Mayor of the City of North Miami Beach is within the purview of the suspension powers of the Governor, pursuant to section 112.51, Florida Statutes.

C. The attached Information, which is incorporated as if fully set forth in this Executive Order, alleges that Anthony F. DeFillipo II committed felonies under the laws of the State of Florida.

BEING FULLY ADVISED in the premises, and in accordance with the Constitution and the laws of the State of Florida, this Executive Order is issued, effective today:

Section 1. Anthony F. DeFillipo II is suspended from the public office, which he now holds, to wit: Mayor of the City of North Miami Beach.

Section 2. Anthony F. DeFillipo II is prohibited from performing any official act, duty, or function of public office; from receiving any pay or allowance; and from being entitled to any of the emoluments or privileges of public office during the period of this suspension, which period shall be from today until a further Executive Order is issued or as otherwise provided by law.

IN TESTIMONY WHEREOF, I have hereunto set my hand and have caused the Great Seal of the State of Florida to be affixed at Tallahassee, this 5th day of June, 2023.




RON DESANTIS, GOVERNOR

ATTEST:


SECRETARY OF STATE

1, 2, 10
2023 JUN -5 PM 2:17
SECRETARY OF STATE
STATE, FL



IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI- DADE COUNTY, FLORIDA SPRING TERM, 2023

THE STATE OF FLORIDA v.

ANTHONY F DEFILLIPO II

Defendant(s)

INFORMATION FOR

1. ELECTION-UNQUALIFIED VOTER FEL 3D 104.15
2. ELECTION-UNQUALIFIED VOTER FEL 3D 104.15
3. ELECTION-UNQUALIFIED VOTER FEL 3D 104.15

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF FLORIDA:

KATHERINE FERNANDEZ RUNDLE, State Attorney of the Eleventh Judicial Circuit,
prosecuting for the State of Florida, in the County of Miami-Dade, by and through her undersigned
Assistant State Attorney, under oath, Information makes that:

RASCO,ANNETTE :AR 05/31/2023

Circuit Court Direct File

Jail No. 230139059 ,Bkd: 5/31/2023 , CIN: 1269534, W/M, DOB: 12/7/1971

F23010981

Venzer (F011)

(CC#: F23010981)

COUNT 1

ANTHONY F DEFILLIPO II, on or about August 23, 2022, in the County and State aforesaid, did willfully vote in an election knowing he/she was not a qualified elector, in violation of 104.15, Fla. Stat., contrary to the form of the Statute in such cases made and provided, and against the peace and dignity of the State of Florida.

(CC#: F23010981)

COUNT 2

And the aforesaid Assistant State Attorney, under oath, further information makes ANTHONY F DEFILLIPO II, on or about October 25, 2022, in the County and State aforesaid, did willfully vote in an election knowing he/she was not a qualified elector, in violation of 104.15, Fla. Stat., contrary to the form of the Statute in such cases made and provided, and against the peace and dignity of the State of Florida.

(CC#: F23010981)

COUNT 3

And the aforesaid Assistant State Attorney, under oath, further information makes ANTHONY F DEFILLIPO II, on or about November 22, 2022, in the County and State aforesaid, did willfully vote in an election knowing he/she was not a qualified elector, in violation of 104.15, Fla. Stat., contrary to the form of the Statute in such cases made and provided, and against the peace and dignity of the State of Florida.

STATE OF FLORIDA, COUNTY OF MIAMI-DADE:

Personally known to me and/or appeared before me physically or by telecommunications, the Assistant State Attorney of the Eleventh Judicial Circuit of Florida whose signature appears below, being first duly sworn, says that the allegations set forth in this Information are based upon facts which have been sworn to as true, by a material witness or witnesses, and which if true, would constitute the offenses therein charged, and that this prosecution is instituted in good faith.

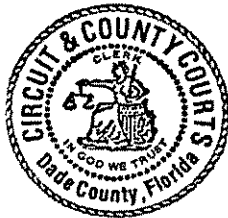
Annette M. Rasco

/s/ ANNETTE M. RASCO


Assistant State Attorney/Bar #: 92985

1350 NW 12th Ave., Miami, FL (305) 547-0100

Sworn to and subscribed before me this 31st day of May, 2023.



By Karina Gacel
Deputy Clerk for Clerk of the Courts, or
Notary Public

Select Year: 2022 

The 2022 Florida Statutes (including 2022 Special Session A and 2023 Special Session B)

<u>Title X</u>	<u>Chapter 112</u>	<u>View Entire Chapter</u>
PUBLIC OFFICERS, EMPLOYEES, AND PUBLIC OFFICERS AND EMPLOYEES: GENERAL RECORDS	PROVISIONS	

112.51 Municipal officers; suspension; removal from office.—

(1) By executive order stating the grounds for the suspension and filed with the Secretary of State, the Governor may suspend from office any elected or appointed municipal official for malfeasance, misfeasance, neglect of duty, habitual drunkenness, incompetence, or permanent inability to perform official duties.

(2) Whenever any elected or appointed municipal official is arrested for a felony or for a misdemeanor related to the duties of office or is indicted or informed against for the commission of a federal felony or misdemeanor or state felony or misdemeanor, the Governor has the power to suspend such municipal official from office.

(3) The suspension of such official by the Governor creates a temporary vacancy in such office during the suspension. Any temporary vacancy in office created by suspension of an official under the provisions of this section shall be filled by a temporary appointment to such office for the period of the suspension. Such temporary appointment shall be made in the same manner and by the same authority by which a permanent vacancy in such office is filled as provided by law. If no provision for filling a permanent vacancy in such office is provided by law, the temporary appointment shall be made by the Governor.

(4) No municipal official who has been suspended from office under this section may perform any official act, duty, or function during his or her suspension; receive any pay or allowance during his or her suspension; or be entitled to any of the emoluments or privileges of his or her office during suspension.

(5) If the municipal official is convicted of any of the charges contained in the indictment or information by reason of which he or she was suspended under the provisions of this section, the Governor shall remove such municipal official from office. If a person was selected to fill the temporary vacancy pursuant to subsection (3), that person shall serve the remaining balance, if any, of the removed official's term of office. Otherwise, any vacancy created by the removal shall be filled as provided by law. For the purposes of this section, any person who pleads guilty or nolo contendere or who is found guilty shall be deemed to have been convicted, notwithstanding a suspension of sentence or a withholding of adjudication.

(6) If the municipal official is acquitted or found not guilty or is otherwise cleared of the charges which were the basis of the arrest, indictment, or information by reason of which he or she was suspended under the provisions of this section, then the Governor shall forthwith revoke the suspension and restore such municipal official to office; and the official shall be entitled to and be paid full back pay and such other emoluments or allowances to which he or she would have been entitled for the full period of time of the suspension. If, during the suspension, the term of office of the municipal official expires and a successor is either appointed or elected, such back pay, emoluments, or allowances shall only be paid for the duration of the term of office during which the municipal official was suspended under the provisions of this section, and he or she shall not be reinstated.

History.—s. 1, ch. 67-66; s. 1, ch. 69-256; s. 3, ch. 73-129; s. 2, ch. 84-245; s. 16, ch. 87-224; s. 719, ch. 95-147; s. 50, ch. 2007-30.

Note.—Former s. 166.16.

**CITY ATTORNEY'S E-MAIL EXCHANGES WITH CITY COMMISSION AND GOV.
DESANTIS' OFFICE OF GENERAL COUNSEL REGARDING APPLICABILITY OF CITY
CHARTER**

Herin, John R.

From: Herin, John R.
Sent: June 2, 2023 8:05 AM
Cc: Mark Antonio (mark.antonio@citynmb.com); Mario Diaz (mario.diaz@citynmb.com); Andrise Bernard (andrise.bernard@citynmb.com)
Subject: Mayor DeFillipo's Arrest
Attachments: Defillipo Warrant Affidavit-C.pdf

Commissioners - As you are likely aware, Wednesday morning Mayor DeFillipo was arrested and charged with violating Section 104.15, Fla. Stat., which states "Whoever, knowing he or she is not a qualified elector, willfully votes at any election is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084." (a term of imprisonment not exceeding 5 years and a fine not to exceed \$5,000). A copy of the Mayor's arrest warrant is attached.

With that said, under Florida law the person with the authority to suspend the Mayor - pending the outcome of the charges filed against him - is the Governor. See, Section 112.51(2), Fla. Stat., which states "Whenever any elected or appointed municipal official is arrested for a felony or for a misdemeanor related to the duties of office or is indicted or informed against for the commission of a federal felony or misdemeanor or state felony or misdemeanor, **the Governor** has the power to suspend such municipal official from office." We have been informed by the State Attorney's Office that the Governor's Office has been made aware of the arrest of the Mayor.

Assuming the Governor exercises the right to suspend the Mayor, Section 112.51(3), Fla. Stat. further states "The suspension of such official by the Governor **creates a temporary vacancy** in such office during the suspension. **Any temporary vacancy** in office created by suspension of an official under the provisions of this section **shall be filled by a temporary appointment** to such office for the period of the suspension. **Such temporary appointment shall be made in the same manner and by the same authority by which a permanent vacancy in such office is filled as provided by law.**" This means the City Commission must turn to the relevant portion of the City Charter dealing with vacancies of the City Commission.

The relevant City Charter provision is Section 4.5, entitled "Vacancies" states:

" . . . should any vacancy occur more than one year prior to the next general election, the Commission shall have no power to fill the same; it [the vacancy of the Mayoral seat] shall be filled by a special election to fill the vacancy for the unexpired term, to be held not less than 35 days nor more than 90 days after such vacancy has occurred, except that if the vacancy is due to a resignation and a City or County-wide election is scheduled to be held during the intervening period from the resignation's filing date with the City Clerk up to and including the resignation's effective date, the special election to fill the vacancy for the unexpired term as of the resignation's effective date may occur (subject to consent of the County Elections Department and City's ability to comply with laws concerning time periods for calling elections) at either such City or County-wide election."

Accordingly, if and when the Governor exercises his right to suspend the Mayor, at the immediately succeeding regular or special call meeting the City Commission must direct the City Clerk and City staff to coordinate with the Miami-Dade Supervisor of Elections the scheduling and conduct of a special election to fill the Mayoral seat vacancy for the remainder of the Mayor's unexpired term. Please do not hesitate to give me a call in the event you have any questions concerning the above information.

John R. Herin, Jr.

Florida Bar Board Certified in City,
County, and Local Government Law
Partner

Fox Rothschild LLP

One Biscayne Tower

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Miami, FL 33131

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(305) 442-6541 - fax

JHerin@foxrothschild.com

www.foxrothschild.com

Herin, John R.

From: Herin, John R. <JHerin@foxrothschild.com>
Sent: June 5, 2023 5:18 PM
To: Mark Antonio (mark.antonio@citynmb.com); Mario Diaz (mario.diaz@citynmb.com);
Andrise Bernard (andrise.bernard@citynmb.com)
Subject: Fwd: EO 23-118
Attachments: EO 23-118-C.pdf

Vice-Mayor and Commissioners - this just arrived in my inbox, and is the first official confirmation that I have received from the Governor's Office confirming Mayor DeFillipo's suspension from office.

John R. Herin, Jr.
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From: Elliott, Samuel <Samuel.Elliott@eog.myflorida.com>
Sent: Monday, June 5, 2023 5:06:08 PM
To: Herin, John R. <JHerin@foxrothschild.com>
Subject: [EXT] EO 23-118

Samuel F. Elliott
Assistant General Counsel
Executive Office of the Governor
(850) 717-9267

Please note that under Florida law correspondence sent to the Governor's Office, which is not confidential or exempt pursuant to chapter 119 of the Florida Statutes, is a public record made available upon request.

Herin, John R.

From: Herin, John R. <JHerin@foxrothschild.com>
Sent: June 6, 2023 10:00 AM
To: Mackenzie Fleurimond (mckenzie.fleurimond@citynmb.com)
Subject: Does "Suspension" of Mayor Create a "Vacancy"?

Yes. Pursuant to state law the Governor's executive order suspending the Mayor from office creates a temporary vacancy that is to be filled in the same manner and under the same authority as a permanent vacancy would be filled, which is by a special election under the City Charter. See, Sec. 112.51(3), Fla. Stat.

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Herin, John R.

From: Herin, John R. <JHerin@foxrothschild.com>
Sent: June 6, 2023 6:04 PM
To: Elliott, Samuel
Subject: RE: EO 23-118

Mr. Elliot – thank you very much for taking the time to speak to me yesterday and I appreciate the copy you forwarded of EO 23-118. As a follow up to our conversation, could you please send me a short email reply addressing the Governor’s Office position on the City moving forward with filling the temporary vacancy of the Mayoral seat in light of the language of Sec. 112.51(3), Fla. Stat. My recollection is that the Governor will not be making a temporary appointment to fill the Mayoral vacancy and that a special election should be called by the City to fill the vacancy for the Mayor’s unexpired term, to be held not less than 35 days nor more than 90 days after such vacancy has occurred. If that is not your understanding, please advise me at your earliest convenience. Otherwise, please have a great evening.

John R. Herin, Jr.

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Partner

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From: Elliott, Samuel <Samuel.Elliott@eog.myflorida.com>
Sent: June 5, 2023 5:06 PM
To: Herin, John R. <JHerin@foxrothschild.com>
Subject: [EXT] EO 23-118

Samuel F. Elliott

Assistant General Counsel
Executive Office of the Governor
(850) 717-9267

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Herin, John R.

From: Elliott, Samuel <Samuel.Elliott@eog.myflorida.com>
Sent: June 7, 2023 4:24 PM
To: Herin, John R.
Subject: [EXT] RE: EO 23-118

Mr. Herin,

I can confirm that, based on the relevant provisions of the Florida Constitution, Florida Statutes, and North Miami Beach Charter, our office does not anticipate making an appointment to the vacancy created by EO 23-118.

Thank you,

Samuel F. Elliott
Assistant General Counsel
Executive Office of the Governor
(850) 717-9267

From: Herin, John R. <JHerin@foxrothschild.com>
Sent: Tuesday, June 6, 2023 6:04 PM
To: Elliott, Samuel <Samuel.Elliott@eog.myflorida.com>
Subject: RE: EO 23-118

Mr. Elliot – thank you very much for taking the time to speak to me yesterday and I appreciate the copy you forwarded of EO 23-118. As a follow up to our conversation, could you please send me a short email reply addressing the Governor’s Office position on the City moving forward with filling the temporary vacancy of the Mayoral seat in light of the language of Sec. 112.51(3), Fla. Stat. My recollection is that the Governor will not be making a temporary appointment to fill the Mayoral vacancy and that a special election should be called by the City to fill the vacancy for the Mayor’s unexpired term, to be held not less than 35 days nor more than 90 days after such vacancy has occurred. If that is not your understanding, please advise me at your earliest convenience. Otherwise, please have a great evening.

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From: Elliott, Samuel <Samuel.Elliott@eog.myflorida.com>

Sent: June 5, 2023 5:06 PM

To: Herin, John R. <JHerin@foxrothschild.com>

Subject: [EXT] EO 23-118

Samuel F. Elliott

Assistant General Counsel

Executive Office of the Governor

(850) 717-9267

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Herin, John R.

From: Herin, John R. <JHerin@foxrothschild.com>
Sent: June 7, 2023 5:29 PM
Cc: Mark Antonio (mark.antonio@citynmb.com); Mario Díaz (mario.diaz@citynmb.com);
Andrise Bernard (andrise.bernard@citynmb.com)
Subject: Gov. DeSantis' Executive Order 23-118 Suspending Mayor DeFillipo
Attachments: [EXT] RE: EO 23-118

Vice-Mayor & Commissioners – Several of you had voiced a concern regarding the possibility of the Governor exercising his executive powers under state law and appointing a replacement to fill the remaining term/temporary vacancy in the Mayoral seat arising from the suspension of Mayor DeFillipo. Per the attached email from the Governor's General Counsel Office that is off the table, and the City Charter language I previously sent to all of you continues to apply – a special election needs to be called by the City Commission at the June 20th meeting. Please do not hesitate to give me a call if you have any questions.

John R. Herin, Jr.

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Partner

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**CITY CLERK'S E-MAIL EXCHANGES WITH MIAMI-DADE COUNTY SUPERVISOR OF
ELECTIONS DEPARTMENT REGARDING DATES OF SPECIAL ELECTION TO FILL
MAYORAL SEAT VACANCY**

Herin, John R.

From: Bernard, Andrise <Andrise.Bernard@citynmb.com>
Sent: May 27, 2023 12:11 PM
To: Herin, John
Subject: Fwd: The Elections Department & Reprecincting

Per our discussion, forwarding for your information. We will discuss further next week.

Sent from my Metro by T-Mobile 5G Device
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From: Rodriguez, Roberto (Elections) <Roberto.Rodriguez@miamidade.gov>
Sent: Friday, May 26, 2023 7:04:55 PM
To: Rodriguez, Roberto (Elections) <Roberto.Rodriguez@miamidade.gov>
Cc: Prieto, Elizabeth (Elections) <Elizabeth.Prieto@miamidade.gov>
Subject: The Elections Department & Reprecincting

[EXTERNAL]This email originated from outside the organization.
Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon Clerks, Deputy Clerks, and staff,

I hope this email finds you well. As we head into summer, it's important to update you on the Elections Department's (Department) reprecincting project. The Department is in the middle of reprecincting, which is a very involved countywide plan. Reprecincting is a process to accurately reflect the latest national, state, county, and local redistricting in Miami-Dade County's election precincts. Because redistricting has been completed, the Department is finalizing its election precincts to conform to these various district boundary changes. This process is necessary to address the needs in the conduct of future elections. As a result, new precincts must be created, quality tested, and reviewed internally prior to finalization.

The Department will complete this delicate and tedious process throughout the coming months. We will then be mailing all 1.6 million registered voters a new voter information card. Please note, during this time period we will not be able to conduct any special elections.

We look forward to our continued partnership and serving the voters of our community. Should you have any questions, please feel free to contact me or Elizabeth Prieto. Have a safe and meaningful Memorial Day Weekend.

All the best,

Robert Rodriguez
Asst. Deputy Supervisor of Elections, Government Affairs & Media Relations
Miami-Dade County Elections Department
2700 NW 87th Avenue, Miami, FL 33172
[305-499-8435](tel:305-499-8435) Office
[305-781-4671](tel:305-781-4671) Mobile
<http://www.miamidade.gov/elections>



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PLEASE NOTE: The City of North Miami Beach is a public entity subject to Chapter 119 of the Florida Statutes concerning public records. E-mail messages are covered under such laws and thus subject to disclosure. All e-mail sent and received is captured by our servers and kept as public record.

Herin, John R.

From: Rodriguez, Roberto (Elections) <Roberto.Rodriguez@miamidade.gov>
Sent: July 20, 2023 1:04 PM
To: Bernard, Andrise
Cc: White, Christina (Elections); Prieto, Elizabeth (Elections)
Subject: RE: Request for Special Election

[EXTERNAL]This email originated from outside the organization.
Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon Andrise,

On behalf of Supervisor of Elections Christina White, please note that the Elections Department has identified the following two options for your special municipal elections.

- Option 1:
 - Tuesday, November 7, 2023 special election with a subsequent run-off election on Tuesday, December 5, 2023, if needed.
 - Resolution due 60 days prior (September 8, 2023)
 - Candidate qualifying must conclude no later than noon on September 23, 2023
 - List and oaths to be provided to the Elections Department no later than September 23, 2023
- Option 2:
 - Tuesday, December 5, 2023 special election with a subsequent run-off election on Tuesday, January 23, 2024, if needed.
 - Resolution due 60 days prior (October 6, 2023)
 - Candidate qualifying must conclude no later than noon on October 21, 2023
 - List and oaths to be provided to the Elections Department no later than October 21, 2023

Please continue working with Liz Prieto on submission deadlines.

All the best,

Roberto A. Rodriguez
Deputy Supervisor of Elections, Government Affairs & Media Relations
Miami-Dade County Elections Department
2700 NW 87th Avenue, Miami, FL 33172
[305-499-8435](tel:305-499-8435) Office
[305-781-4671](tel:305-781-4671) Mobile
<http://www.miamidade.gov/elections>



Miami-Dade County is a public entity subject to Chapter 119 of the Florida Statutes concerning public records. Email messages are covered under such laws and thus subject to disclosure.

From: Bernard, Andrise <Andrise.Bernard@citynmb.com>
Sent: Wednesday, July 19, 2023 10:05 AM
To: Rodriguez, Roberto (Elections) <Roberto.Rodriguez@miamidade.gov>
Cc: White, Christina (Elections) <Christina.White@miamidade.gov>; Prieto, Elizabeth (Elections)

<Elizabeth.Prieto@miamidade.gov>

Subject: RE: Request for Special Election

EMAIL RECEIVED FROM EXTERNAL SOURCE

Good Morning Roberto,

Hope this email finds you doing well.

As of the July 18, 2023 City Commission Meeting, there was discussion regarding the Special Election date. Per the City Commissioner's request, I have been directed to request for several Special Election dates and run off dates (if necessary, as of now there is no early voting).

Our next City Commission meeting is scheduled for Tuesday, August 15, 2023, respectfully I would like to present these date options to the elected officials at that time.

Thank you in advance for your assistance.

Best Regards,



Andrise Bernard | MMC, City Clerk

City of North Miami Beach

Office of the City Clerk

T (305) 787-6001, ext. 2000

F (305) 787-6026

17011 NE 19th Avenue, North Miami Beach, FL 33162 | www.citynmb.com | City NMB on Social Media:

From: Rodriguez, Roberto (Elections) <Roberto.Rodriguez@miamidade.gov>

Sent: Thursday, June 29, 2023 1:00 PM

To: Bernard, Andrise <Andrise.Bernard@citynmb.com>

Cc: White, Christina (Elections) <Christina.White@miamidade.gov>; Prieto, Elizabeth (Elections)

<Elizabeth.Prieto@miamidade.gov>

Subject: RE: Request for Special Election

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Good afternoon Andrise,

Following up on your email below and as a reminder, the Elections Department is currently managing the critical and time sensitive reprecincting project for all of Miami-Dade County plus over a dozen elections.

After careful consideration we can conduct the requested special election on Tuesday, October 10, 2023, with a subsequent run-off election on Tuesday, November 7, 2023, should it be needed.

Promptly advise and notify us if these elections will include early voting. If so, how many days/hours? Additionally, ensure you submit the finalized resolution calling for these elections immediately after your next city commission meeting on July 18, 2023. Your qualifying period must end no later than Friday, September 1, 2023.

As always continue working with Liz Prieto for your election coordination needs.

All the best,

Roberto A. Rodríguez
Deputy Supervisor of Elections, Government Affairs & Media Relations
Miami-Dade County Elections Department
2700 NW 87th Avenue, Miami, FL 33172
305-499-8435 Office
305-781-4671 Mobile
<http://www.miamidade.gov/elections>



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From: Bernard, Andrise <Andrise.Bernard@citynmb.com>
Sent: Tuesday, June 27, 2023 12:15 PM
To: Rodriguez, Roberto (Elections) <Roberto.Rodriguez@miamidade.gov>
Cc: White, Christina (Elections) <Christina.White@miamidade.gov>; Prieto, Elizabeth (Elections) <Elizabeth.Prieto@miamidade.gov>
Subject: Request for Special Election
Importance: High

Good Afternoon,

Please excuse the back and forth.

It was brought to my attention that October 3rd is a Jewish holiday. Please advise when the next available Special Election date can be held. Thank you in advance for your prompt attention to this request.

Sincerely,

City of North Miami Beach



Andrise Bernard | MMC, City Clerk
City of North Miami Beach
Office of the City Clerk
T (305) 787-6001, ext. 2000
F (305) 787-6026

17011 NE 19th Avenue, North Miami Beach, FL 33162 | www.citynmb.com | City NMB on Social Media:

From: Bernard, Andrise
Sent: Tuesday, June 20, 2023 3:11 PM
To: Rodriguez, Roberto (Elections) <Roberto.Rodriguez@miamidade.gov>
Cc: White, Christina (Elections) <Christina.White@miamidade.gov>; Prieto, Elizabeth (Elections) <Elizabeth.Prieto@miamidade.gov>
Subject: RE: Request for Special Election

Good Afternoon,

Just for clarification...

Please be advise that we are looking at Tuesday, October 3, 2023 for the Special Election Date and if necessary November 7, 2023 as the Run off Date for the Mayor's seat.

I will continue working with Ms. Prieto



Andrise Bernard | MMC, City Clerk

City of North Miami Beach
Office of the City Clerk

T (305) 787-6001, ext. 2000

F (305) 787-6026

17011 NE 19th Avenue, North Miami Beach, FL 33162 | www.citynmb.com | City NMB on Social Media:

From: Bernard, Andrise

Sent: Tuesday, June 20, 2023 2:46 PM

To: Rodriguez, Roberto (Elections) <Roberto.Rodriguez@miamidade.gov>

Cc: White, Christina (Elections) <Christina.White@miamidade.gov>; Prieto, Elizabeth (Elections) <Elizabeth.Prieto@miamidade.gov>

Subject: RE: Request for Special Election

Importance: High

Good Afternoon Roberto,

Hope this email finds you doing well.

Initially I contacted your office to fill a Commissioner vacancy seat, however I am requesting a Special election to fill one seat which is the Mayoral seat.

We are having our commission meeting tonight to get approval and direction. I will contact the office tomorrow to follow up and next steps required.

Sincerely,



Andrise Bernard | MMC, City Clerk

City of North Miami Beach
Office of the City Clerk

T (305) 787-6001, ext. 2000

F (305) 787-6026

17011 NE 19th Avenue, North Miami Beach, FL 33162 | www.citynmb.com | City NMB on Social Media:

From: Rodriguez, Roberto (Elections) <Roberto.Rodriguez@miamidade.gov>

Sent: Tuesday, May 23, 2023 3:15 PM

To: Bernard, Andrise <Andrise.Bernard@citynmb.com>

Cc: White, Christina (Elections) <Christina.White@miamidade.gov>; Prieto, Elizabeth (Elections) <Elizabeth.Prieto@miamidade.gov>

Subject: RE: Request for Special Election

[EXTERNAL]This email originated from outside the organization.

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Good afternoon Andrise,

On behalf of Supervisor of Elections Christina White, please note that the Elections Department is currently managing the critical and time sensitive reprecincting project for all of Miami-Dade County. Therefore, after careful consideration we can conduct the requested special election on Tuesday, October 3, 2023, with a subsequent run-off election on Tuesday, November 7, 2023, should it be needed. Please continue working with Liz Prieto on submission deadlines.

All the best,

Robert Rodriguez
Asst. Deputy Supervisor of Elections, Government Affairs & Media Relations
Miami-Dade County Elections Department
2700 NW 87th Avenue, Miami, FL 33172
305-499-8435 Office
305-781-4671 Mobile
<http://www.miamidade.gov/elections>



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From: Bernard, Andrise <Andrise.Bernard@citynmb.com>
Sent: Tuesday, May 23, 2023 11:38 AM
To: Prieto, Elizabeth (Elections) <Elizabeth.Prieto@miamidade.gov>
Subject: RE: Request for Special Election

Good Morning Liz,

Noted. Please let me know as soon as possible.

Thank you in advance for your prompt assistance.

Best Regards,
Andrise



Andrise Bernard | MMC, City Clerk
City of North Miami Beach
Office of the City Clerk
T (305) 787-6001, ext. 2000
F (305) 787-6026

17011 NE 19th Avenue, North Miami Beach, FL 33162 | www.citynmb.com | City NMB on Social Media:

From: Prieto, Elizabeth (Elections) <Elizabeth.Prieto@miamidade.gov>
Sent: Tuesday, May 23, 2023 9:48 AM
To: Bernard, Andrise <Andrise.Bernard@citynmb.com>
Cc: Prieto, Elizabeth (Elections) <Elizabeth.Prieto@miamidade.gov>
Subject: RE: Request for Special Election

[EXTERNAL] This email originated from outside the organization.
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Good morning Andrise,

Afford me the opportunity to discuss with management in order to identify the most feasible date for all parties. Please note that reprecincting, currently underway, will impact the timeline.

Will advise.

Best Regards,
Elizabeth Prieto
Elections Coordination Manager
Government Affairs and Media Relations Division
Miami-Dade County Elections
Phone: 305.499.8405
<http://www.miamidade.gov/elections>



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From: Bernard, Andrise <Andrise.Bernard@citynmb.com>
Sent: Monday, May 22, 2023 5:29 PM
To: Prieto, Elizabeth (Elections) <Elizabeth.Prieto@miamidade.gov>
Subject: RE: Request for Special Election
Importance: High

Good Afternoon Liz,

I have extracted language from our Charter regarding filing a Commission seat vacancy. Our Commission meeting was held on May 16 where at that time a ruling was made, and the commission seat became vacant. According to the below, do you have any dates that would accommodate. Please advise. As always thank you for your prompt assistance.

Sec. 4.5 - Vacancies.

- Vacancies in elective offices of the City of North Miami Beach shall be filled by the City Commission pending the next general election, at which time an election to fill the vacancy shall be held for any remainder of the unexpired term. Provided, however, that should any vacancy occur more than one year prior to the next general election, the Commission shall have no power to fill the same; it shall be filled by a special election to fill the vacancy for the unexpired term, to be held not less than 35 days nor more than 90 days after such vacancy has occurred, except that if the vacancy is due to a resignation and a City or County-wide election is scheduled to be held during the intervening period from the resignation's filing date with the City Clerk up to and including the resignation's effective date, the special election to fill the vacancy for the unexpired term as of the resignation's effective date may occur (subject to consent of the County Elections Department and City's ability to comply with laws concerning time periods for calling elections) at either such City or County-wide election. Any person who has been appointed or elected to fill a vacancy due to resignation filed pursuant to Florida Statute section 99.012 shall be installed and take office following the date the resigning official would take office, if elected; any person who has been appointed or elected to fill a vacancy due to resignation not filed pursuant to Florida Statute section 99.012 shall be installed and take office following the effective date set forth in said resignation. Provisions related to a Special Election called pursuant to this section, including the qualifying period, shall be established in the City Resolution calling the Special Election.

Sincerely,
Andrise



Andrise Bernard | MMC, City Clerk
City of North Miami Beach
Office of the City Clerk
T (305) 787-6001, ext. 2000
F (305) 787-6026

17011 NE 19th Avenue, North Miami Beach, FL 33162 | www.citynmb.com | City NMB on Social Media:

From: Prieto, Elizabeth (Elections) <Elizabeth.Prieto@miamidade.gov>
Sent: Monday, May 22, 2023 9:35 AM
To: Bernard, Andrise <Andrise.Bernard@citynmb.com>
Cc: Prieto, Elizabeth (Elections) <Elizabeth.Prieto@miamidade.gov>
Subject: FW: Request for Special Election

[EXTERNAL]This email originated from outside the organization.
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Good morning Andrise,

To address the below request, please advise on the below information:

Early Voting Dates:

Candidate Qualifying Dates:

Next scheduled commission meeting: June 20, 2023

If you have any questions, feel free to contact me.

Best Regards,

Elizabeth Prieto

Elections Coordination Manager

Government Affairs and Media Relations Division

Miami-Dade County Elections

Phone: 305.499.8405

<http://www.miamidade.gov/elections>



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From: Bernard, Andrise <Andrise.Bernard@citynmb.com>

Sent: Friday, May 19, 2023 9:34 AM

To: White, Christina (Elections) <Christina.White@miamidade.gov>

Cc: Prieto, Elizabeth (Elections) <Elizabeth.Prieto@miamidade.gov>; Rodriguez, Roberto (Elections) <Roberto.Rodriguez@miamidade.gov>

Subject: RE: Request for Special Election

Good Morning Christina,

I spoke with Liz yesterday. Liz asked if we were planning on having early voting and how many days before the actual voting date. The answer is yes, we do want early voting for the Special election preferably one week prior. I will continue to work with Liz regarding this.

Thank you for your response.

Sincerely,



Andrise Bernard | MMC, City Clerk

City of North Miami Beach

Office of the City Clerk

T (305) 787-6001, ext. 2000

F (305) 787-6026

17011 NE 19th Avenue, North Miami Beach, FL 33162 | www.citynmb.com | City NMB on Social Media:

From: White, Christina (Elections) <Christina.White@miamidade.gov>
Sent: Thursday, May 18, 2023 4:45 PM
To: Bernard, Andrise <Andrise.Bernard@citynmb.com>
Cc: Prieto, Elizabeth (Elections) <Elizabeth.Prieto@miamidade.gov>; Rodriguez, Roberto (Elections) <Roberto.Rodriguez@miamidade.gov>
Subject: RE: Request for Special Election

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Andrise,

Liz has been trying to reach you. As you likely know, the Department is in the middle of reprecincting, which is a very involved countywide plan. This is limiting our ability to conduct special elections over the summer. Please continue working with Liz to coordinate dates that work for both the city and the Department.

Regards,
Christina White
Supervisor of Elections
Miami-Dade County
305.499.8509

From: Bernard, Andrise <Andrise.Bernard@citynmb.com>
Sent: Wednesday, May 17, 2023 11:53 AM
To: White, Christina (Elections) <Christina.White@miamidade.gov>
Cc: Prieto, Elizabeth (Elections) <Elizabeth.Prieto@miamidade.gov>; Rodriguez, Roberto (Elections) <roberto.rodriguez@miamidade.gov>
Subject: Request for Special Election
Importance: High

Good Morning Ms. White,

Hope this email finds you doing well.

The City of North Miami Beach held its Commission Meeting last night where a ruling was made, and it created a vacancy for a Commission seat. In the need to fill this vacancy within the next 90 days, a Special election is being requested. Respectfully, please advise of the steps that need to be taken and the available date for such.

Thank you in advance for your prompt attention to this request.

Sincerely,



Andrise Bernard | MMC, City Clerk
City of North Miami Beach
Office of the City Clerk
T (305) 787-6001, ext. 2000
F (305) 787-6026

**CITY CLERK'S E-MAIL EXCHANGE WITH MIAMI-DADE COUNTY SUPERVISOR OF
ELECTIONS DEPARTMENT REGARDING COST OF SPECIAL ELECTION**

Herin, John R.

From: Arana, Federico (Elections) <Federico.Arana@miamidade.gov>
Sent: July 18, 2023 4:31 PM
To: Bernard, Andrise
Cc: Ponce, Jose J. (Elections)
Subject: RE: Quotes
Attachments: Estimate - North Miami Beach Special - Stand Alone 10_10_2023.pdf

[EXTERNAL] This email originated from outside the organization.
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Andrise,

See estimate attached for North Miami Beach Special Election on 10/10/2023. As I explained over the phone in case there is a Run-Off, the estimated cost for the Runoff would be an additional \$66,958.41.

If any questions, please do not hesitate to contact us.

Regards,

Federico J. Arana
Special Projects Administrator 2
Budget & Finance
MIAMI-DADE COUNTY ELECTIONS DEPT.
Phone: (305) 499-8543
Farana@miamidade.gov

For more information visit us at
<https://www8.miamidade.gov/global/elections/home.page>



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From: Bernard, Andrise <Andrise.Bernard@citynmb.com>
Sent: Tuesday, July 18, 2023 2:48 PM
To: Arana, Federico (Elections) <Federico.Arana@miamidade.gov>
Cc: Ponce, Jose J. (Elections) <jose.ponce@miamidade.gov>
Subject: RE: Quotes

EMAIL RECEIVED FROM EXTERNAL SOURCE

Hello,

Please give me a call today at your earliest convenience.

Thank you kindly,



Andrise Bernard | MMC, City Clerk

City of North Miami Beach
Office of the City Clerk

T (305) 787-6001, ext. 2000

F (305) 787-6026

17011 NE 19th Avenue, North Miami Beach, FL 33162 | www.citynmb.com | City NMB on Social Media:

From: Bernard, Andrise

Sent: Tuesday, July 18, 2023 11:59 AM

To: Arana, Federico (Elections) <Federico.Arana@miamidade.gov>

Cc: Ponce, Jose J. (Elections) <jose.ponce@miamidade.gov>

Subject: Quotes

Good Morning Mr. Arana,

It was a pleasure speaking with you.

As I mentioned there is a tentative date for a Special Election to be held on October 10, 2023 and a Run Off if necessary on November 7, 2023.

Please provide a quote for each.

We are not planning one but also for early voting.

Thank you for your prompt attention to this request.

Sincerely,



Andrise Bernard | MMC, City Clerk

City of North Miami Beach
Office of the City Clerk

T (305) 787-6001, ext. 2000

F (305) 787-6026

17011 NE 19th Avenue, North Miami Beach, FL 33162 | www.citynmb.com | City NMB on Social Media:

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ESTIMATE

North Miami Beach (Special) - 10/10/2023

No Early Voting

Andrise Bernard, CMC
City of North Miami Beach
17011 NE 19 Avenue
North Miami Beach, FL 33162

Estimate N°: NMB-SP-10102023
Estimate Date: July 18, 2023

Registered Voters:	23,000	Early Voting Days:	0
Precincts:	20	Early Voting Sites:	0
Polling Places:	8		
Permanent Absentee Ballots:	6000		

Personnel	\$ 23,374.68
<i>Salaries & Fringe Benefits, Overtime, Poll Workers</i>	
Polling Places	3,680.00
<i>Security, Polling Place Rentals</i>	
Supplies and Services	2,145.00
<i>Election Supplies, Communication Charges, Absentee Ballots Set Up</i>	
Trucks and Vehicles	4,560.00
<i>Truck Rentals, GSA Vehicles</i>	
Printing and Advertising	14,490.00
<i>Absentee, Early Voting & Precinct Ballots, Temporary Polling Place Change Notices, Newspaper Ads</i>	
Postage	10,161.60
<i>Absentee Ballots Sent and Business Reply, Temporary Polling Place Change Notices, Letters</i>	
Ballot Creation	2,460.00
<i>In-House & Outside Contractual Services, Translations - Based on one question</i>	
Administrative Overhead	6,087.13
<i>Indirect Costs, Logic & Accuracy, Post-Election Audits</i>	
Early Voting	-
*TOTAL	\$ <u>66,958.41</u>

* Please note these costs are estimates and are subject to change. This estimate does include the cost of ballot printing; however, if your question(s)/race(s) creates an additional ballot page, the cost will be adjusted accordingly.

For more information, you may contact:

Jose Ponce
Deputy Supervisor of Elections
Miami-Dade Elections Department
2700 NW 87 Avenue
Miami, Florida 33172

Office: 305-499-8320 E-mail: jose.ponce@miamidade.gov

**MIAMI HERALD ARTICLE REGARDING LAWSUIT AGAINST GOV. DESANTIS TO
COMPEL SPECIAL ELECTION TO FILL VACANCY IN SEAT OF FLORIDA HOUSE
DISTRICT 118**



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FLORIDA POLITICS

DeSantis sets election for vacant Florida House seat in Miami-Dade after group sues

BY EMMA JANSSEN

UPDATED JULY 19, 2023 8:42 PM





Map of Florida House District 118 *Florida House of Representatives*



Only have a minute? Listen instead

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00:00

Less than a week after the ACLU Foundation of Florida filed a lawsuit hoping to force his hand, Gov. Ron DeSantis has ordered a special election for a vacant Florida House seat in Miami-Dade County.

DeSantis released an executive order Wednesday afternoon, setting a primary election date of Oct. 3 and a general election date of Dec. 5, if necessary, to fill the seat.

Formerly held by Juan Alfonso Fernandez-Barquin, the seat has been vacant since Fernandez-Barquin's resignation from the House on June 11. Fernandez-Barquin, a Republican, was appointed by DeSantis to serve as Miami-Dade County clerk of court and comptroller. DeSantis announced the appointment on June 9.

The lawsuit, filed by the ACLU on behalf of District 118 voter Layssa Zamora, contended that DeSantis should be required to call a special election in the district no later than Nov. 21, given that lawmakers are set to return to Tallahassee for committee meetings in September. Next year's legislative session will begin in January.

Nicholas Warren, a staff attorney with the ACLU of Florida, told the Miami Herald that the group would not continue to pursue the complaint. "The governor has complied with the request that we made in the petition. So the case will be ended."

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Still, Warren said he was dismayed that Fernandez-Barquin's seat will remain vacant for months. "It should not take a lawsuit to get the governor to call a special election," he said.

Though the dates of the election were just set, House Republicans have already begun preparations for the race to represent a majority-Hispanic district in southwest Miami-Dade that leans Republican. Daniel Perez, a Miami Republican who is in line to be the state's next speaker of the House, has already announced his endorsement of attorney Michael Redondo.

DeSantis on Wednesday also released an executive order setting a special election in Central Florida to fill former Rep. Fred Hawkins' seat in District 35.

The News Service of Florida contributed to this report.

This story was originally published July 19, 2023, 8:21 PM.