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City Attorney's Communication #2015-287

December 3, 2014

Luciano Isla, P.A.
Attorney at Law
6625 Miami Lakes Drive East
Suite 424
Miami Lakes, Florida 33014

Re: Inquiring concerning granting of Franchises

Dear Mr. Isla:

Your letter dated December 1, 2014 directed to the Purchasing Office of the City of Pompano Beach has been directed to me for a response.

In your letter you question the City's authority to award an exclusive franchise for the hauling of residential and commercial solid waste pursuant to the RFP, which you attached. In addition your question relates to Section 228 of the City's Charter, "Granting of Franchises".

In response to your question, please be advised that the performance of a service involving waste hauling for the City does not constitute a franchise for exclusive use of City streets, water and waterways, public beaches, and recreational facilities, lands, and ways. While the performance of services required under the franchise agreement will likely occur upon City streets, the use of City streets for said purposes is not exclusive and other members of the public will at the same time have the right to utilize and access said streets.

Thus, granting of a franchise by the City of Pompano Beach for residential and commercial solid waste collection services is by no means a franchise for exclusive use of City property contemplated and regulated by Section 228 of the City's Charter.

Thank you for your inquiry.

Sincerely,

MARK E. BERMAN
Assistant City Attorney

MEB/ds
l:cor/atty/2015-287
cc: Otis Thomas, Purchasing Director
Russell Ketchem, Recycling Specialist