



Commonwealth  
of Massachusetts

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### Advisory Opinion

June 6, 2001

AO-01-13

Michael J. Barry, City Solicitor  
City of Lynn Law Department  
Room 406, City Hall  
Lynn, Massachusetts 01901

Dear Attorney Barry:

This letter is in response to your April 26, 2001 request for an advisory opinion regarding the use of a municipal golf course for political fundraising activities.

You have stated that your office has received a request for a legal opinion concerning the use of the Gannon Golf Club for political fundraising purposes. The city-owned club consists of a golf course and a building that contains a clubhouse, pro shop, and banquet facility. City employees work in the clubhouse. You note that this office has issued a public resolution letter advising against the use of the Gannon Golf Club clubhouse and banquet facility for political fundraising activities, under c.55, §14.

### **Questions**

- (1) May a political candidate use the grounds of a municipal golf course for a fundraising event without using the golf course clubhouse or banquet facility, which is owned by the City of Lynn?
- (2) May a political candidate place a tent on the grounds of the golf course to hold a fundraising event?

### **Answers**

The answer to both questions is yes. A fundraising event that takes place on the grounds of the municipal golf course, including an event using a tent on the grounds of the golf course that does not involve the use of the clubhouse or banquet facility for political fundraising activity, would comply with Section 14 of the campaign finance law.

## **Discussion**

M.G.L. c.55, §14 states, in pertinent part:

“No person shall in any building or part thereof occupied for state, county or municipal purposes demand, solicit or receive any payment or gift of money or other thing of value for the purposes set forth in section thirteen.”<sup>1</sup>

The prohibition against solicitation in buildings occupied for public purposes was first adopted by the legislature in 1884. St. 1884, c.320, §7.<sup>2</sup> Entitled “An Act To Improve The Civil Service Of The Commonwealth And The Cities Thereof”, Chapter 320 also adopted the prohibitions and protections now set forth in M.G.L. c.55, §§13, 15, 16 and 17. As the Act’s title and other provisions indicate, the purpose of these laws was and is to prohibit public employees from engaging in certain political activities and to protect them and others, from certain political pressures. In particular, Section 14 protects all persons who are working in buildings or parts thereof occupied for state, county or municipal purposes as well as anyone who may visit such buildings or parts thereof from being subjected to the pressures of political solicitation.

Section 14 applies to “any building and any part thereof occupied for state, county or municipal purposes.” Relevant rules of statutory construction require that the language of a statute should be interpreted according to the common and usual meaning of the words used in the statute. Thus, we must consider the language of Section 14 in the context of this rule of statutory construction and in accordance with the legislative purpose in enacting the statute.

### **“Any building or part thereof”**

Section 14 concerns any “building” or “part thereof” which is occupied for state, county or municipal purposes. This office has previously stated that Section 14 applies to government buildings, such as the State House or a Town Hall (AO-91-19); to individual rooms or any other part of a building if such space is used for state, county or municipal purposes, such as office space leased by a state agency in an otherwise privately owned building (AO-91-19); and to any other interior or exterior space which is an immediate and intrinsic part of a state, county or municipal building or part thereof, such as a hallway in front of a government office or the steps going into a government building (AO-88-10).

Advisory Opinion 88-10 dealt with the question of whether a campaign fundraising event could be held in a public building (the Holyoke Heritage State Park Museum) if the actual collection activity associated with the event took place, at the same time as the event, at a table set up in the park grass or sidewalk immediately near the building. This office decided that neither the requirements nor the intent underlying Section 14 would be met by having a fundraising event held in a state building while the actual collection activity associated with the

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<sup>1</sup> Section 13 refers to such purposes as “the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever.”

<sup>2</sup> This law has been amended on a number of occasions. Its purpose, however, has been consistent. The relevant language originally referred to “rooms or buildings occupied for the discharge of official duties.” The relevant portion of the statute’s present language was adopted in 1918. St. 1918, c.146, §§2-4.

event took place concurrently and immediately outside of such building. Thus, we held that Section 14 prohibits the use of state buildings, together with their immediate surroundings, for political fundraising in this manner.

In Advisory Opinion 91-19, this office extended the application of the “immediate surroundings of a state, county or municipal building” standard to conclude that the prohibitions of Section 14 applied within the fenced area of the Hingham Landfill: to the security shack, which was the sole building actually occupied for municipal purposes, to the compacting and recycling facilities and to the immediate access roads. This interpretation of Section 14 prohibited the solicitation of political contributions anywhere on the grounds or in the immediate vicinity of the landfill. In retrospect, this interpretation of Section 14 was overly broad. Although it is reasonable to interpret Section 14 to conclude that the immediate surroundings of a building occupied for municipal purposes should not be used to collect funds where a concurrent event is taking place in the building, or to conclude that the steps or another intrinsic part of a public building should not be used for collecting campaign funds, the prohibitions of Section 14 should not extend to all of the surrounding land of a public building. Land is not a “part” of a building within the meaning of Section 14. This interpretation is consistent with previous advisory opinions in which we stated that the prohibitions of Section 14 do not apply to public park land that contains no buildings (AO-92-28).

#### **“Occupied for state, county or municipal purposes”**

Many types of governmental services may be provided in publicly-owned or -occupied buildings. Governmental services include those that directly relate to the health, welfare and safety of the public and to the administration or governance of the state, a county or a municipality. However, governmental services also include those that relate to purposes such as promoting the common good by providing public libraries, parks and recreational facilities. The fundamental question as to whether a building is “occupied for governmental purposes” within the scope of Section 14 must be determined by a review of all the circumstances relative to the building’s use. Key factors in making this determination are the primary purpose of the building and whether state, county or municipal employees work in the building.

In 1989, this office concluded that the John B. Hynes Veterans Memorial Convention Center, in Boston, was not subject to Section 14 (AO-89-07). The building was publicly owned, but its primary use was to accommodate gatherings of public and private parties. We noted that the Massachusetts Convention Center Authority, a governmental entity, maintained offices within the convention center. We concluded, however, that the building was not occupied primarily for state, county or municipal purposes. Rather, it was occupied primarily for the purpose of leasing out the space to private and public parties. In addition, while Section 14 may apply to that part of the building containing the governmental offices, the prohibitions of Section 14 did not apply to the convention or meeting facilities themselves. This decision, in AO-89-07, was based on the fact that the governmental offices were segregated from the convention facilities. Public employees and visitors to the public offices could therefore be insulated from any political fundraising activities that may occur in the convention facilities.

In 1994, the office concluded that a fundraising event could take place in the Melrose Memorial Hall, which is owned by the City of Melrose (AO-94-04). The building consisted of an auditorium and a small function room, both of which were used for rental purposes only. There were no municipal offices in the building. We concluded that while Melrose Memorial Hall may have been a public

building, it was not “occupied for state, county or municipal purposes” within the meaning of the statute.

In the context of your question, the City of Lynn provides a public service in its operation of the municipal golf course, similar to the service provided, for example, by a public library. We have said that such buildings are subject to Section 14 (AO-94-17). The clubhouse contains service facilities open to the general public such as the pro shop, locker rooms and food service areas, which are staffed by municipal employees. In addition, the City maintains office space for its municipal employees within the building. Therefore, Section 14 prohibits political fundraising in the clubhouse and banquet facility since the contemplated political fundraising activities could not be insulated from the public’s use of the club nor could the public employees who work in the clubhouse be insulated from the political fundraising activities.

In contrast, however, the grounds of the golf course are not an immediate and intrinsic part of the clubhouse. Therefore, the prohibitions against political solicitation set forth in M.G.L. c.55, §14 are not applicable to the grounds of the Gannon Golf Club. A fundraising event may therefore be held on the grounds of the golf course if the clubhouse building is not used for any fundraising activity.<sup>3</sup> In addition, a tent may be placed on the grounds for use in a fundraising event.

This opinion has been rendered solely on the basis of the representations set forth in your letter and solely in the context of M.G.L. c.55.

Please do not hesitate to contact this office should you have additional questions about this or any other campaign finance matter.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan". The signature is written in black ink and is positioned to the left of a vertical line that extends downwards from the end of the signature.

Michael J. Sullivan  
Director

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<sup>3</sup> The prohibition on the use of the clubhouse for fundraising activities should not be construed to mean that persons attending the event could not use the clubhouse at all. For example, participants in the fundraising event could use the locker room or rest room facilities, as would any other member of the general public.