



ASHLEY MOODY
ATTORNEY GENERAL
STATE OF FLORIDA

OFFICE OF THE ATTORNEY GENERAL
Opinions Section

PL-01 The Capitol
Tallahassee, FL 32399-1050
Phone (850) 245-0158 Fax (850) 922-3969
<http://www.myfloridalegal.com>

April 25, 2019

Mr. Joseph Rogan, Chair
City of Jacksonville Ethics Commission
Office of Ethics, Compliance & Oversight
117 West Duval Street, Room 450
Jacksonville, Florida 32202

Dear Chairman Rogan:

On behalf of the City of Jacksonville Ethics Commission (“Ethics Commission”)—a local ethics commission created by the Jacksonville Code of Ordinances (“City Code”)—you have requested an opinion regarding whether “a charter-county, such as the consolidated City of Jacksonville, [is] preempted by Florida’s Government-in-the-Sunshine Law (chapter 286, Florida Statutes) from granting its local ethics commission by municipal ordinance concurrent enforcement authority over violations of the Sunshine Law?” It is our understanding that your General Counsel, Mr. Jason R. Gabriel, has already provided dispositive guidance to the Ethics Commission¹ regarding

¹ Section 7.02 of the Charter of the City of Jacksonville provides as follows:

The head of the office of general counsel shall be the general counsel who shall be the chief legal officer for the entire consolidated government, including its independent agencies... Any legal opinion rendered by the general counsel shall constitute the final authority for the resolution or interpretation of any legal issue relative to the entire consolidated government and shall be considered valid and binding in its application unless and until it is overruled or modified by a court of competent jurisdiction or an opinion of the *Attorney General of the State of Florida* dealing with a matter of *solely state law*.

(Emphasis added.) Here, any question that the Ethics Commission might have regarding the *existing scope* of its enforcement authority depends on an interpretation of City Code provisions defining the Commission’s jurisdictional limitations—an interpretation which its counsel has already provided. See Frequently Asked Questions About Attorney General Opinions (available at <http://myfloridalegal.com/pages.nsf/Main/dd177569f8fb0f1a85256cc6007b70ad>) (last visited March 29, 2019) (“Opinions generally are not issued on questions requiring an interpretation only of local codes, ordinances or charters rather than the provisions of state law. Instead such requests will usually be referred to the attorney for the local government in question.”). Moreover, only the City, through a majority vote of the City Commission, could request an opinion regarding the scope of enforcement authority the City could *potentially* grant by ordinance to a local ethics commission. See § 16.01(3), Fla. Stat. (2018) (reflecting that the Attorney General “may, upon the written requisition of a...unit of local

Mr. Joseph Rogan, Chair
Page Two

the scope of its jurisdiction under the City Code, by advising the Commission that the City Code does not grant such "concurrent enforcement authority" to the Commission.²

In so doing, Mr. Gabriel has also correctly observed that determinations of state Sunshine Law violations are the province of the State Attorney.³ Under these circumstances, this office must decline to comment further.

Sincerely,



Teresa L. Mussetto
Assistant Attorney General

TLM/tsh

government...give an official opinion and legal advice in writing on any question of law relating to the official duties of the requesting officer").

² See memorandum dated March 1, 2019, from Jason R. Gabriel to the Ethics Commission at 3 (interpreting the City Code of Ordinances and concluding that the City cannot thereby grant—and thus has not, either directly or indirectly, granted—to its Ethics Commission "the power to enforce a state law in a manner different from the method established in that state law.").

³ See *id.* at 3; see also Op. Atty. Gen. Fla. 91-38 (1991) (concluding that "it appears that the state attorney may pursue actions on behalf of the state against public officials for violations of Ch. 119, F.S., the Public Records Law, and s. 286.011, F.S., the Government in the Sunshine Law, which may result in a finding of guilt for a noncriminal infraction").