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REFERENDA - FLORIDA

Dinerstein v. Bucher

District Court of Appeal of Florida, Fourth District - January 15, 2020 - So.3d - 2020 WL 218328

Taxpayer filed verified emergency petition for declaratory and injunctive relief against city alleging misuse of public funds for unlawful government advocacy and injunctive relief against a political action committee concerning dissemination of deceptive advertisements.

The Circuit Court entered final judgment in favor of city. Taxpayer appealed.

The District Court of Appeal held that:

- City's expenditure for payment to local political consulting company for execution of voter education campaign was not a political advertisement, and
- Ballot title and summary seeking to amend provisions of city charter were not misleading.

City's payment of $43,200 to local political consulting company for planning, management, and execution of voter education campaign before city election was not a political advertisement constituting the functional equivalent of express advocacy for passage of ballot measure, and, thus, did not violate statute barring the expenditure of public funds for a political advertisement or constitutional provision reserving political power in the people, where city provided literature indicating what citizens should know about ballot initiatives, created website where citizens could learn more information, disseminated a voter's guide, and generated robocalls providing website address and hotline number, none of which expressly advocated a position on ballot measure.

Ballot title and summary in city election, seeking to amend and modify provisions of city charter, were not misleading, as would have required ballot measure to be removed from ballot, where summary asked "to remove provisions that are outdated, unnecessary, or conflict with state law," listed various topics which were generally understandable, ended with reference to a separate document, and separate document contained a track-changes version of the charter indicating precise proposed additions and deletions.

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