

Miami City Commissioners Move Toward Rescinding Demonstration Ordinance

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In a unanimous vote last week, the Miami City Commission moved to repeal an ordinance governing the conduct of demonstrations and parades, enacted just prior to the Free Trade Area of the Americas summit (FTAA) held last November.

“This ordinance was approved under pressure,” said Commissioner Tomas Regalado, “with a big guilt trip from the city administration.”

The ordinance, entitled “Streets and Sidewalks,” established “reasonable time, place and manner regulations concerning materials and objects that may be possessed, carried or used by those participating in parades and public assemblies.” It went into effect at midnight on Thursday November 27, 2003 – FTAA Ministerial Eve. Among items banned from the demonstration were glass bottles, signs held up with wooden poles, water guns and water balloons.

Many civil libertarians and city officials questioned the broad language of the ordinance.

“Unconstitutional” was the word used by Kris Hermes of the Miami Activist Defense (MAD) to describe the law. Regalado said it gives “the police too much latitude on how to enforce the law, the area is too gray for the police.” The *Miami Herald* quoted Commissioner Arthur E. Teele Jr. as saying, “I cannot support an ordinance that clearly outlaws what is a purely innocent activity.”

Regardless, anticipated civil unrest and the threat of violence forced the commission’s hand to unanimously pass the parade ordinance in September 2003.

Although he didn’t mention names, Regalado explained that officials within the police department and the Mayor’s and Town Manager’s office put a scare into the commission, and did a very good job of persuading them to pass the ordinance. They were convinced lives were at stake.

“As an elected official, you don’t want to be responsible for a police officer being killed,” said Regalado. Repealing the ordinance was not on February 26 agenda. Regalado brought it to the dais first thing in the morning. His reasoning: it just doesn’t make sense for Miami.

“There are many cultures here that are very passionate and don’t understand many of these rules. There is no harm in waiving a Venezuelan or Cuban flag or displaying Haitian placards,” Regalado said.

Hermes (MAD) doesn’t think that the item coming before the commission, unannounced on Thursday, was by chance.

“The National Lawyers Guild (NLG) along with MAD filed a federal civil suit on February 4, challenging Miami’s unreasonable permit scheme,” said Hermes.

The lawsuit, filed by Lake Worth for Global Justice Inc, an activist collective, names City Manager Joe Arriola, Miami Police Chief John Timoney, and Fire Rescue Chief William Bryson as the defendants. The lawsuit claims that Miami’s protest permit scheme “imposes a license on protected speech,” and that it is devoid of a comprehensive set of decision-making standards as to whether or not, and under what conditions a permit should or shouldn’t be granted. The suit also questions the vagueness of ordinance’s enforceability.

“The current permit scheme leaves too much arbitrary discretion to the city,” said Hermes.

Hermes is glad the commission is considering repealing the ordinance. He said it would definitely assist in some arrest dismissals. But even if passed, it still doesn't change the unconstitutionality of the existing permit scheme. The lawsuit targets the unfairness of demonstrators having to file for liability insurance, and the 30-minute dismissal rule that dictates not more than seven people can gather in any one place for more than 30 minutes. Hermes is adamant about the permit scheme's vigorous attack on the First Amendment

"People should have the right to protest in a planned or extemporaneous fashion, without being subject to police action," Hermes said. "They shouldn't need insurance or a permit."

Hundreds of arrests resulted from the FTAA demonstrations, but none were ordinance specific. However, arrests were made for failing to disperse and disobeying a police order, both offenses similar to those outlined in the November ordinance.

Judge Beth Bloom dismissed one arrest for "failure to obey a police order" and "resisting arrest without violence" in Dade-County Court on January 28. Arrested was Gan Golan, a research assistant at the program for Human Rights and Justice at Harvard's Kennedy School of Government. Golan was arrested, along with sixty others, while attending a peace vigil in front of the Miami-Dade Jail. The arresting officer, Lt. Jeffrey Schmidinger, testified that police officers moved in on the demonstration before the time allowed by the ordinance. Golan was pepper-sprayed and pushed to the ground. According to MAD, Bloom ruled "that no reasonable juror could convict Golan based on the evidence presented."

"Being acquitted does not solve the problem of how and why the police violated all of our rights. The defense has won its case, but unless we can stop this behavior from happening on the streets of Miami and other cities around the nation, the police will remain able to perpetrate their misconduct against other," said Golan in MAD press release.

Ed Griffith, spokesman for the Miami-Dade State Attorney's Office, disputed the account given by MAD. In February, Griffith told the *SunPost* that Miami-Dade police officers moved in on the jail demonstrators when, after being told to "disengage and head east," the protesters instead headed toward a police phalanx. Griffith also claims that the jury would have found Golan guilty if it weren't for the judge's order.

The ordinance repeal will have its second reading and public hearing on Thursday March 11, at Miami City Hall.