

DE 84-2 - January 23, 1984

**RESIGN TO RUN LAW
MEMBERS OF APPOINTED BOARDS OR AUTHORITIES SERVING WITHOUT
SALARY
s. 99.01(5), F.S.**

To: Ms. Barbara Hall, Assistant City Attorney, City of Delray Beach, 100 N. W. First Avenue, Delray beach, Florida 33444

Prepared by: Division of Elections

This is a formal Division of Elections Advisory Opinion pursuant to s. 106.23(2), F.S., (1981) on essentially the following questions:

1. Must an appointed member of the City of Delray Beach Planning and Zoning Board who serves without compensation resign to run for a seat on the city council, the term of which runs concurrently with the term of office on the Planning and Zoning Board?

2. Must an appointed member of the Delray Beach Human Relations Commission who serves without compensation resign to run for a seat on the city council, the term of which runs concurrently with the term of office on the Human Relations Commission?

A person who serves as a member of an appointed board or authority without salary is exempt from the Resign to Run Law, s. 99.012(5).

According to the City Charter of Delray Beach, the membership of the Planning and Zoning Board shall be appointed by the City Council and shall serve without compensation. Article 1, Section 19-5. Members of the Human Relations Commission also serve without compensation. City Charter Resolution No. 28-82, Section 4(h). Accordingly, the appointed positions on the Planning and Zoning Board and Human Relations Commission are not required to comply with the provisions of the Resign to Run law. See DE 83-5 (March 3, 1983).

Article II, Section 5(a) of the Florida Constitution of 1968 prohibits dual office-holding and states in pertinent part:

“ . . .No person shall hold at the same time more than one office under the government of the state and counties and municipalities therein, except that a

notary public or military officer may hold another office, and any officer may be a member of a constitution revision commission, constitutional convention, or statutory body having only advisory powers.”

While this opinion does not address this issue, if you wish to inquire about the applicability of the dual office-holding provision to your case, I suggest that you contact Honorable Jim Smith, the Attorney General.

SUMMARY

Members of the Planning and Zoning Commission and the Human Relations Commission who are serving without salary are exempt from the Resign-to-Run Law and need not resign or take a leave of absence in order to qualify as a candidate for elected municipal office.