

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN

SECRETARY OF STATE

MUTUAL BUILDING
208 N. CAPITOL AVENUE

LANSING

MICHIGAN 48918

April 12, 1985

Neil J. Lehto
Stewart, O'Reilly, Lascoe & Rancilio, P.C.
Professional Village Plaza
40600 Van Dyke Avenue
Sterling Heights, Michigan 48078-4080

Dear Mr. Lehto:

This is in response to your request for an interpretive statement concerning the applicability of the Campaign Finance Act, 1976 PA 388, as amended, ("the Act") to the use of public access cablecasts by political candidates.

The city you represent exercises regulatory authority over a local cable television system. This city is now considering various aspects of the use of public access cablecasting facilities by political candidates. You inquire whether the identification requirement of the Act would apply to video tapes produced by political candidates and cablecast on a public access channel.

Section 47(2) of the Act (MCL 169.247) states:

"(2) A radio or television paid advertisement having reference to an election, a candidate, or ballot question shall identify the sponsoring person as required by the federal communications commission, shall bear the name of the person paying for the advertisement, and shall be in compliance with the following:

(a) If the radio or television paid advertisement relates to a candidate and is an independent expenditure, the advertisement shall contain the following disclaimer: 'Not authorized by any candidate'.

(b) If the radio or television paid advertisement relates to a candidate and is not an independent expenditure but is paid for by a person other than the candidate to which it is related, the advertisement shall contain the following disclaimer: 'Authorized by _____'.

(name of candidate or name of candidate committee)

(Emphasis added.)

The condition precedent to application of the identification requirements of

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section 47(2) of the Act is that the radio or television communication be a paid advertisement. You state that in your cable television system, "the use of public access video taping equipment and public access time is free". You also indicate that the cable television system provides no other services whatsoever in connection with the production or the cablecasting of the videotape. Upon further inquiry of the Department, you state that this service is available upon request to any resident or property owner within the cable system area.

Under these circumstances, the cablecast would not be a paid political advertisement and, therefore, the identification requirements of section 47(2) of the Act would not apply. You should be aware, however, that unequal access to political advertisement programming may violate other provisions of the Act and/or federal law.

This response is informational only and does not constitute a declaratory ruling.

Very truly yours,



Phillip T. Frangos
Director
Office of Hearings and Legislation

PTF/cw