

ORDINANCES

Roadway Solicitation: One County's Approach

by Sophia M. Stadnyk, Senior Associate Counsel

After residents and businesses conveyed concerns about the impact of roadway soliciting, the County Executive in Montgomery County, Maryland, convened a task force in October 2009 to look into the issue of roadway solicitation and make recommendations for practical and appropriate ways to deal with the problem. The complaints included an indication that the County had become a magnet for panhandlers because it was one of the few without restrictions on roadway soliciting; that panhandling was a major contributor to a negative perception of crime in the community, as shoppers would shun the central business district as an undesirable or unsafe place to shop; that panhandlers at intersections posed a traffic hazard to themselves and motorists (e.g., panhandlers in wheelchairs at a median strip); and that increased numbers of mendicants at roadways conveyed an overall impression of an uncaring community, one unable to meet the basic needs of its residents. Other groups indicated that restrictions would impede their fundraising efforts—the firefighters, for example, pointed to their "Fill the Boot" charity campaign, in which donations were collected through solicitations at intersections.

The County Code did prohibit aggressive panhandling and hindering pedestrian or vehicular traffic; state law banned roadway solicitation by minors and made it a traffic offence for any pedestrian to be in the roadway where a sidewalk existed for pedestrian traffic. The police indicated that the traffic offence provision was often ineffective because it required the offender to provide a valid ID and address, something that most of the homeless did not have.

The Task Force noted that, while some panhandlers were homeless, appropriate services did exist in the County to serve such individuals, and panhandling could often be counter-productive to addressing homelessness and related problems.

The Roadway Solicitation Task Force included State legislators, representatives from the business community and local citizen groups, the police and firefighters, and the County Attorney's Office. On January 31, 2011, County Executive Ike Leggett released the 43-page report of the Task Force. The Task Force referred to a wide array of material: a May 15, 2009 Maryland Attorney General's opinion that a full ban on all roadside solicitation would be constitutional, but that a permitting system (limiting the number of permits per year or allowing permits only for special groups) would not be. A second Attorney General opinion, issued in August 2010, opined that a law, making it a traffic offence for a driver to make a contribution in response to a roadside solicitation, would also be constitutional. (Both opinions are attached as appendices to the Report). It also looked at reports on panhandling, including one from Winnipeg, Canada, and what other jurisdictions were doing. A survey by the County's Department of Health and Human Services (DHHS) of 32 panhandlers in the County indicated that most were not shelter residents, and two-thirds had indicated they were disabled. In addition, groups that worked with the homeless were consulted, and suggested that the problem was various barriers in accessing services by the homeless (mental health or substance abuse problems, a lack of transportation, and safety issues with shelters). The police were consulted regarding enforcement issues with neighboring jurisdictions that had adopted a ban on roadway solicitation.

The Task Force noted that, while some panhandlers were homeless, appropriate services did exist in the County to serve such individuals, and panhandling could often be counter-productive to addressing homelessness and related problems. In concluding, the group outlined a number of possible options: seeking state legislation to ban roadway soliciting and making it a civil, not a criminal, offence; a state law that would allow the County to issue permits for individuals or groups to use roadways for solicitations; and including a possible "social service outreach component" to provide community education, and services for those in need.

Mr. Leggett has asked the State legislators who served on the Task Force to introduce a bill in the 2011 legislative session that would authorize the County to establish a permit system for roadside solicitation. Under the bill, solicitation from a median strip or sidewalk adjacent to a roadway without a permit would be prohibited.

A copy of the Task Force Report is available online at http://www.montgomerycountymd.gov/content/pdf/report_ce_transmittal_1-31-2011.pdf. ML