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ATTORNEY GENERAL

*State of Louisiana*  
DEPARTMENT OF JUSTICE  
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November 26, 2013  
**OPINION 13-0171**

90-A-1 PUBLIC FUNDS & CONTRACTS  
La. Const. art. VII. Sec. 14

Mr. V.J. St. Pierre, Jr.  
St. Charles Parish President  
Post Office Box 302  
Hahnville, Louisiana 70057

St. Charles Parish may provide dumpsters to homeowners as part of its blighted property program as set forth in the St. Charles Parish Code of Ordinances Sections 16-49 & 51 but the Parish must ensure that it secures payment or reimbursement from the private landowner for all costs associated with providing the dumpsters either through a lien or a repayment agreement.

Mr. Paul J. Hogan, PE  
St. Charles Parish Councilman, District IV  
Post Office Box 302  
Hahnville, Louisiana 70057

Dear Mr. St. Pierre and Mr. Hogan:

Your request for an opinion of this office has been forwarded to me for research and reply.

According to your request and our subsequent telephone conversations, St. Charles Parish (the "Parish") occasionally seeks out or addresses complaints regarding property that is deemed unsafe or dangerous and informs the property owner that the Parish will provide dumpsters to them if the homeowner has someone demolish the structure and place the debris in the dumpster. Other times, the Parish receives calls from homeowners requesting a dumpster. When this happens, the Parish will label the property as blighted in order to provide the dumpster to the landowner pursuant to its blighted property ordinance. The Parish pays for the delivery, use, pick up and dumping fees associated with each dumpster. The funds used to pay for the dumpsters come from money allocated in the Parish budget under Public Works-Drainage-Paved Streets.

It is our understanding that no dumpsters are provided to landowners unless and until the Parish has complied with St. Charles Parish Code of Ordinances, Chapter 16, Article IV, which sets forth the procedure to be used to address blighted property within the Parish.

Sec. 16-48 provides that upon receipt by the planning department that a building or premises:

- (1) Is or may become dangerous or unsafe to the general public;
- (2) Is vacant and open at the doorways or windows making it accessible to and an object of attraction to minors under eighteen (18) years of age, as well as to vagrants and other trespassers;
- (3) Is or may become a place of rodent or insect infestation;
- (4) Has become littered with trash or debris;
- (5) Is unfit for the purposes for which it may lawfully be used; or
- (6) Presents any other danger to the health, safety, morals and general welfare of the public;

an inspection and report in writing concerning findings and recommendations in regard to the repair or demolition and removal of the structure and/or removal of trash and debris shall be made to the parish president. The planning director shall then order the placement of a sign two (2) feet by three (3) feet in size, to be erected safely in the public right-of-way adjacent to the property or to be placed on the property where the violation occurred. Cost of production for signs shall be included in any future collection of enforcement expenses of the parish. Said authorized sign shall identify the name of the property owner/violator, indicate the home address and telephone number of the owner/violator and a description of the violation(s) that the owner/violator has incurred.

The owner of the unsafe building or premises will then have thirty days after receipt of notice to restore the building or condition to a safe condition. St. Charles Parish Code of Ordinances Sec. 16-49. If the restoration has not begun within ten days after receipt of notice or advertisement in the official journal, the planning director shall request the parish attorney to obtain a court order ordering the owner of the property to comply with the abatement order, or seek the court's permission to allow the parish or its agent to bring the premises to a safe condition at the owner's expense. *Id.* The payment and collection of expenses of the parish will then be done in accordance with Section 16-51 of the St. Charles Parish Code of Ordinances.

The facts presented in your opinion request and our subsequent telephone conversations establish that once the above cited Ordinance is followed, the Parish may continue providing commercial dumpsters to property owners in order to assist them in cleaning up property which has been formally declared as blighted. However, we point out that in order to avoid running afoul of La. Const. art. VII, Sec. 14(A), which prohibits the gratuitous alienation of public funds, the Parish must seek to recover the expenses associated with providing the dumpsters.

This is consistent with past opinions issued by our office regarding whether a public entity may spend public funds on a private landowner's property. For example, La. Atty. Gen. Op. No. 10-0201 concluded that the City of Minden may not use public funds and/or resources to repair private roads leading to a private or church-owned cemetery. La. Atty. Gen. Op. No. 05-0299 opined that a Parish may not repair roads on private property used primarily for the benefit of private individuals. Similarly, La. Atty. Gen. Op. No. 08-0109 concluded that the use of parish prisoners to clean private property would be tantamount to a prohibited donation and such activities are not permissible under Louisiana law. La. Atty. Gen. Op. No. 88-384, which addressed whether the City of Minden could use public employees to repair sidewalks on private property stated that "providing the manpower required to repair these privately owned sidewalks requires the use of public funds" and concluded, "even though the materials for the repair are provided by the landowners, this practice is contrary to the provisions of Article VII, Section 14 of the Louisiana Constitution of 1974." La. Atty. Gen. Op. No. 81-1223 opined that a "police jury is not legally authorized to perform construction or maintenance work on private driveways if the benefits of said work accrue only to the owner of the property enhanced thereby."

Also in accord is La. Atty. Gen. Op. No. 00-14, which addressed whether East Baton Rouge City-Parish could use public funds to repair sewer lines on private property when the City-Parish had been mandated by the United States Environmental Protection Agency to substantially reduce sewer discharge. We concluded that the City-Parish could not use public funds on such an expenditure and stated as follows:

By virtue of the City-Parish's authority to compel private property owners to make necessary repairs, the City-Parish is not required or obligated to fund the repairs with public money. Although the City-Parish is obligated to the EPA to reduce sewer discharge, it can apparently accomplish what needs to be done on private property by requiring necessary repairs to be made by the property owners. Since the City-Parish has the authority to require private property owners to make sewer repairs, the need for the City-Parish to publicly fund the repairs is obviated.

With regard to providing dumpsters or paying the fees associated therewith, La. Atty. Gen. Op. No. 00-187 concluded that a solid waste commission could not use public funds to pay the rental fee for commercial dumpsters to be placed at commercial businesses. Similarly, La. Atty. Gen. Op. No. 96-115 concluded that a police jury could not expend public funds to pay all or a portion of the monthly rental fee being charged by a solid waste disposal company for the commercial dumpsters it supplies to private businesses located in the Parish.

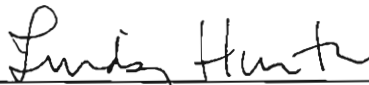
In light of the constitutional provision against donating public funds and the opinions cited above regarding the prohibition against using public funds for the benefit of private property owners, it is our opinion that the Parish may continue providing dumpsters as

part of the procedures set forth in St. Charles Parish Code of Ordinances Sections 16-49 & 51 but the Parish must ensure that it is reimbursed for the costs associated with the dumpsters as failing to do so would amount to using public funds for the benefit of a private landowner in violation of La. Const. art. VII, Sec. 14. Ordinance Sections 16-49 and 51 provide the Parish with lien rights but do not preclude the Parish from entering into another type of agreement with a private landowner whereby the landowner repays the Parish for the costs of providing the dumpsters. The terms of such agreement should include repayment in a reasonable time and must be careful not to jeopardize the lien right given to the Parish by the parish ordinance. We would recommend any such agreement be reviewed by the Parish's attorney.

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

Yours very truly,

JAMES D. "BUDDY" CALDWELL  
Attorney General

By:   
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