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ATTORNEY GENERAL

State of Louisiana  
DEPARTMENT OF JUSTICE  
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**AUG 13 2013**  
**OPINION 13-0059**

150 - TAXATION  
La. Const. art. VI, § 26; La. R.S. 39:704

The Honorable Cecil R. Sanner  
District Attorney  
Thirty-Eighth Judicial District  
Post Office Drawer 280  
Cameron, Louisiana 70631

*Ad valorem* tax proceeds dedicated "for the purpose of maintaining and operating the Cameron Parish Courthouse and Jail," may not be used to maintain and operate buildings other than those that house the court and jail.

Dear Mr. Sanner:

Your request for an Attorney General's Opinion regarding the use of certain tax proceeds has been assigned to me for research and reply.

You indicate that, on May 4, 2013, the voters of the Parish of Cameron (the "Parish") renewed the *ad valorem* tax contained in the following proposition:

Shall the Parish of Cameron, be authorized to levy a tax of two and sixty-four hundredth (2.64) mills on the dollar of the assessed valuation on all property subject to taxation in said Parish (an estimated \$739,631.01 is reasonably expected to be collected from the levy of this tax per annum), for a period of ten (10) years commencing with the year 2014, for the purpose of maintaining and operating the Cameron Parish Courthouse and Jail?

Further, you indicate as follows:

The office of the Cameron Parish Police Jury was situated in the Cameron Courthouse until 1967 when a building was constructed on the east side of the Courthouse and was referred to as the "Police Jury Annex." The maintenance and operational expenses of this Annex were paid out of the courthouse and jail *ad valorem* tax.

The District Attorney's office was located in a building (owned by Cameron Parish) next to the Courthouse until 2010 when a new building was constructed to house the D.A. and the Tax Assessor. The current

maintenance and operational expenses of this "East Annex" are also paid out of the courthouse and jail *ad valorem* tax.

Prior to Hurricane Rita in 2005, the Cameron courthouse housed the District Judge, Clerk of Court, Sheriffs Office, Registrar of Voters, Tax Assessor and the Civil Defense office.

Hurricane Rita destroyed the Police Jury Annex. Thereafter, from 2005 to 2012, the Police Jury, its Administrator and staff, the Registrar of Voters and the Director of Planning and Development, and their employees, were housed in a temporary location at Creole, Louisiana. The Sheriffs investigators and the Office of Emergency Preparedness were temporarily located in a building behind the courthouse. The courthouse and jail tax was used to fund the maintenance and operational expenses at these temporary sites.

In 2012 the Cameron Parish Police Jury moved from its temporary site in Creole to a new facility ("West Annex") adjacent to the Courthouse. This facility also houses the West Cameron Port Commission, the Registrar of Voters and the OEP. The current maintenance and operational expenses of this new building are also paid from the courthouse and jail *ad valorem* tax.

Considering the past use of these tax proceeds, you ask the following questions:

1. May the Cameron Parish Police Jury use these tax monies for the purpose of maintaining and operating the building ("East Annex") which currently houses the District Attorney and the Tax Assessor?
2. May the Cameron Parish Police Jury use these tax monies for the purpose of maintaining and operating the building ("West Annex") which houses the Parish Administrator and staff, the West Cameron Port Commission, the Registrar of Voters and the Office of Emergency Preparedness?
3. Was the Cameron Parish Police Jury authorized to use the courthouse and jail tax monies for the maintenance and operation of its temporary location in Creole that housed the Parish administrator and staff, the Registrar of Voters, the Director of Planning and Development, and the Office of Emergency Preparedness from 2005 to 2012?

Because all of your questions involve the use of tax proceeds for operating and maintaining buildings other than the actual courthouse and jail, this office will answer them *in globo*.

Local governments may impose taxes only when the power to do so has been granted to them by the state constitution or by statute.<sup>1</sup> Article VI, § 26(B) of the Louisiana Constitution grants the governing authority of a parish the authority to levy a millage increase for other than general purposes, if approved by a majority of the electors voting thereon in an election held for that purpose. The proposition must state the specific purpose or purposes for which the tax is to be levied and the length of time the tax is to remain in effect. Significantly, all proceeds of the tax must be used solely for the purpose or purposes set for in the proposition.

Moreover, Louisiana law provides that the proceeds of any special tax shall constitute a trust fund to be used exclusively for the objects and purposes for which the tax was levied.<sup>2</sup> Additionally, Louisiana jurisprudence provides that special tax authorizations must be strictly construed.<sup>3</sup>

Here, the millage increase approved by the voters provided that the proceeds and avails of the tax shall be used "for the purpose of maintaining and operating the Cameron Parish Courthouse and Jail." No other use was permitted in the proposition submitted to and approved by the voters. Consequently, the tax proceeds at issue can only be used for maintaining and operating the Cameron Parish Courthouse and Jail.

In order to determine whether the Parish's use of the *ad valorem* tax proceeds is or was appropriate, we must determine what the voters intended when they approved the proposition dedicating the tax revenues, in part, for the purpose of maintaining and operating the Cameron Parish Courthouse and Jail. The controlling factor in making this determination is the understanding that can reasonably be ascribed to the voting population as a whole.<sup>4</sup> According to Black's Law Dictionary (8th ed. 2004), a "courthouse" is defined, in pertinent part, as "the building where the judge or judges convene to adjudicate disputes and administer justice." Further, a "jail" is defined as "a local government's detention center where persons awaiting trial or those convicted of misdemeanors are confined."

In this instance, the terms of the tax proposition specifically provide that the tax proceeds may only be used for the purpose of maintaining and operating the building where the judge or judges convene to adjudicate disputes and administer justice as well as a local government's detention center where persons awaiting trial or those

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<sup>1</sup> *Denham Springs Economic Development Dist. v. All Taxpayers*, 04-1674, p. 7 (La.2/4/05), 894 So.2d 325, 331; *Radiofone, Inc. v. City of New Orleans*, 93-0962, p. 2 (La.1/14/94), 630 So.2d 694, 696.

<sup>2</sup> La. R.S. 39:704.

<sup>3</sup> *Police Jury of the Parish of Acadia v. All Taxpayers, et al.*, 95-145 (La.App. 3 Cir. 3/29/95), 653 So.2d 94, rehearing denied; *Hemler v. Richland Parish School Board*, 76 So. 585 (La. 1917); *Watkins v. Ouachita Parish School Board*, 136 So. 591 (La. 1931); *Hodnett v. Monroe City School Board*, 277 So.2d 598 (La.App. 2 Cir. 1972) and *Brock v. St. James Parish Council*, 407 So.2d 1265 (La.App. 4 Cir. 1981), writ denied.

<sup>4</sup> *Denham Springs Economic Development Dist.*, 04-1674 at p. 15, 894 So.2d at 335.

convicted of misdemeanors are confined. As such, it is the opinion of this office that these *ad valorem* tax proceeds may be used by the Parish only for those purposes.

Finally, we note that our opinion can be distinguished from that in Atty. Gen. Op. No. 08-0033. There, we determined that the LaSalle Parish Police Jury may use tax proceeds to purchase a building adjacent to the LaSalle Parish Courthouse for use as an office for the LaSalle Parish District Attorney's Office.

The tax proposition in Atty. Gen. Op. No. 08-0033 specifically limited the use of proceeds, in part, for the "improving, maintaining, and operating the courthouse." Basically, we determined that by alleviating overcrowding, the courthouse would be improved by the purchase of the adjacent building. Nevertheless, in the current instance, the proposition only allows for maintenance and operation.

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,

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Attorney General

By:



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JDC/BAH II