

January 30, 2006
OPINION NUMBER 05-0297

90-A-1 Public Funds & Contracts
La. Const. Art. VII, Sec. 14
La. R.S. 33:4574

Mr. Stephen A. Mogabgab
St. Tammany Parish Tourist
and Convention Commission
512 E. Boston Street
Covington, Louisiana 70433-2943

St. Tammany Parish Tourist Commission has the statutory and legal authority to accept the donation of office space for a certified tourist center from a private entity and incur the costs of signage that directs the public to the tourist center location.

Dear Mr. Mogabgab:

On behalf of the St. Tammany Parish Tourist and Convention Commission (Commission) you have requested an opinion of this office regarding the authorized methods by which the Commission may obtain office space for a certified tourist center. According to your request, the Commission has the opportunity to obtain office space for a certified tourism center in a planned, but as yet incomplete, business location for \$1.00 per year lease in exchange for the Commission moving its present center to the new location and arranging for all necessary signage that directs visitors to the location. This new space and location would assist the Commission in accomplishing its mission to bring tourism to St. Tammany Parish and the signage requested would be a necessary component of any certified tourism center established by the Commission.

The Commission views the proposed lease arrangement as a donation of office space wherein there is a public purpose and a large public benefit received well beyond the value of the actual cost of the \$1.00 per year lease payment. The fact that the private entity may benefit from the traffic flow generated by the certified tourism center is a result that cannot be avoided. However, because the business complex is not yet completed, the Commission has been offered space in the form of counter space within the retail office of the complex owners' current business location. This temporary space is offered at no cost or obligation to the Commission.

Specifically, the Commission requests an opinion on whether it may accept such a donation of office space in return for which the Commission incurs the cost of all necessary signage directing tourists to the tourism center and which may benefit the private entity by bringing potential customers to the general location. You also ask our opinion as to whether the Commission is authorized to operate a temporary tourist center located within the private enterprise location at no cost to the Commission.

LSA-R.S. 33:4574A(2) created the St. Tammany Parish Tourist Commission pursuant to Article VI, Section 19 and 30 of the 1974 Louisiana Constitution. R.S. 33:4574F specifically provides that the Commission shall be construed to be a political subdivision of the state.

LSA R.S. 33:4574(E) provides that the Commission “shall have the power to sue and be sued, to accept grants and donations of every type, to make capital improvements for the purpose of obtaining federal funds, to do all things necessary for the promotion and the advertisement and publications of information relating to tourist attractions within its jurisdiction.”

This office is unaware of any provision of state law that would prohibit the Commission from receiving a donation of office space or prohibit the Commission from engaging in the type of lease agreement or conditional donation described in your request. Article VII, Section 14(A) of the Louisiana Constitution prohibits the state or any of its political subdivisions from donating public funds or assets, but does not prohibit them from receiving donations. Our office has previously recognized the authority of a public entity to accept the donation of property to be used by the public entity to conduct its authorized activities, and the ability of a donor to place restrictions or conditions upon a donation to a public entity as authorized by C.C. 1527. Op. Atty. Gen. Nos. 04-0170, 03-0201, 00-66, 03-0320 and 90-308. The acceptance of office space for a certified tourism center at no cost to the Commission or obtaining office space at a nominal lease payment in return for the Commission paying for the costs of signage directing tourists to the certified tourism center would be a permissible donation.

Furthermore, the language of R.S. 33:4574E, makes it clear that the Legislature intended to give the Commission the power to solicit and accept donations from private sources to accomplish its purpose of promoting tourism within its jurisdiction. Such authority would include the power to accept the donation of office space for a certified tourist center and the authority to incur the cost of placing signs directing the public to the specific location.

It is therefore the opinion of our office that pursuant to its statutory authority the St. Tammany Parish Tourist & Convention Commission may accept from a private entity a donation of office space for a certified tourism center located within a commercial retail office or complex. It is the further opinion of this office that the Commission may barter its location or accept a \$1.00 annual office space lease in return for which the Commission would arrange for the payment of all necessary signage that directs visitors to the tourist office location, even though the private entity may benefit from the customer traffic flow coming to the certified tourism center.

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St. Tammany Parish Tourist Commission
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If you have any questions or comments, please do not hesitate to contact our office.

With kindest regards,

Very truly yours,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY:

RICHARD L. MCGIMSEY
Assistant Attorney General

CCF/RLM/jav

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Syllabus

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Date Received:

Date Released: January 30, 2006

Richard L. McGimsey
Assistant Attorney General