

November 9, 2005
OPINION NUMBER 05-0345

William Joseph Cleveland
City Attorney
City of Zachary
1413 Birdie Dr.
Zachary, LA 70791

71- Municipalities
71-1-B Home Rule Charter
The discretion of the City of Zachary's Mayor to
reallocate the functions, powers, duties, and
responsibility of a department is subject to the
approval of the council.

Dear Mr. Cleveland:

Your request for an Attorney General opinion was forwarded to me for research and reply. As I understand your question, you want to know whether the Mayor of Zachary has authority under its Home Rule Charter to reassign duties and responsibilities of a department head without the approval of the City Council.

Pursuant to *Section 4-11* of Zachary's *Home Rule Charter*, entitled, "*Administrative Reorganization*," the Mayor has the authority to propose a change, combination or abolition of a department, office or agency and/or to reallocate the functions, powers, duties and responsibilities of that department, office or agency and present such to the Council for approval.

We have learned through your request that the City Council initially approved the Mayor's proposed administrative re-organization of two positions in to one. An employee was appointed to fill the position and has since then been unable to properly perform the duties of both. As a result, the Mayor unilaterally allowed the employee to perform the duties of only one position without fulfilling the other, which is the equivalent to having abolished the later position.

Under the facts as presented, it is the opinion of this office that the Mayor is not empowered to act alone in abolishing the duties of an appointed position without Council.

We hope that this sufficiently answers your inquiries, but if we can be of further assistance, please do not hesitate to contact us.

Yours very truly,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

By: CHARLENE PATTERSON
Assistant Attorney General

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Date Received:

Date Released: November 9, 2005

Charlene Patterson
Assistant Attorney General