

May 9, 2006
Opinion Number 05-0452

90-A-2 PUBLIC FUNDS - Loan, Pledge, or Grant

Honorable Robert F. Zabbia
Mayor, City of Ponchatoula
125 West Hickory Street
Ponchatoula, LA 70454

Article VII, Section 14(A) of the La. Constitution

Summary: Unless a legal obligation existed for the Town to remove a fallen tree from the roof of a private home, it is an unlawful donation.

Dear Mayor Zabbia:

You have requested an opinion regarding the City of Ponchatoula's use of public funds to pay for the removal of a tree that fell on a private home during Hurricane Katrina. The City hired a contractor to remove debris from public spaces. While the contractor was performing these services, a city councilman directed him to remove a tree from a private home, thereby causing the removal to be performed at the City's expense.

Article VII, Sec. 14(A) of the La. Const. contains the prohibition against donating public funds. Generally, political subdivisions are found to have violated this provision if they give up something of value when they are under no legal obligation to do so.¹

It is our opinion that unless the City had a legal obligation to remove the tree, it was an unlawful donation² for the City to pay for its removal. The City must seek reimbursement of its actual costs of removing the tree from the private homeowner.

If you have any further questions, please contact our office.

Yours very truly,

CHARLES C. FOTI, JR.
Attorney General

BY: _____
DENISE BROU FITZGERALD
Assistant Attorney General

CCF, jr./DBF/dam

¹ *Town of Brusly v. WBR Police Jury*, 283 So.2d 288 (1st Cir. 1973); Atty. Gen. Op. No. 90-651

² La. Atty. Gen. Op. Nos. 03-0043 and 02-0341

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Syllabus

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Date Received:

Date Released: May 9, 2006

Denise Brou Fitzgerald
Assistant Attorney General