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State of Louisiana
DEPARTMENT OF JUSTICE
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SEP 24 2013
Opinion 13-0129

Mr. Mark C. Morgan
City Attorney
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Gretna, LA 70053

61 LAWS – General

La.Rev.Stat. 40:1730.40(C)

La.Rev.Stat. 40:1730.40(C) does not require the City to accept third party inspections in place of inspections conducted by the City's Code Enforcement Department.

Dear Mr. Morgan:

Your request for an Attorney General's Opinion has been assigned to me for research and reply. On behalf of the City of Gretna ("City"), you have asked for our office's opinion on a matter related to La.Rev.Stat. 40:1730.40(C). Specifically, you ask for our opinion as to whether La.Rev.Stat. 40:1730.40(C) requires the City to accept third party inspections in place of inspections conducted by the City's Code Enforcement Department.

La.Rev.Stat. 40:1730.40(C) provides the following:

§ 1730.40. Municipalities and parishes; home rule charter

C. Nothing in this Section shall allow any local government to avoid enforcement or otherwise amend any of the mandatory construction code provisions required by R.S. 40:1730.28 or prohibit commercial and residential contractors or homeowners from using certified third-party providers pursuant to R.S. 40:1730.24.

La.Rev.Stat. 40:1730.24 allows municipalities and parishes to contract with certified third party providers to issue permits and enforce the state uniform construction code. La.Rev.Stat. 40:1730.24 provides as follows:

§ 1730.24. Agreements with other governmental entities for provision of services; private agreements

A. Municipalities and parishes may establish agreements with other governmental entities of the state or certified third-party providers to issue permits and enforce the state uniform construction code in order to provide the services required by this Part. In the event of the establishment of such an agreement, the maximum fees applicable to the

issuance of permits and the enforcement of the code shall be established by the governing body of the municipality or parish. The council may assist in arranging for municipalities, parishes, or certified third-party providers to provide the services required by this Part to other municipalities or parishes if a written request from the governing body of the municipality or parish is submitted to the council.

B. Commercial and residential contractors and homeowners who are excepted from the contractor licensing law under R.S. 37:2170 may establish agreements with certified third-party providers to conduct plans review and inspections and enforce the state uniform construction code. On and after January 1, 2007, a third-party provider shall meet the requirements imposed by the council for certificates of registration; however, beginning January 1, 2008, upon application and fulfillment of all other requirements necessary to obtain a certificate of registration, a third-party provider who is a Louisiana licensed architect or engineer shall be granted a certificate of registration without certification by a recognized code organization. Once the council meets for the first time, certified third-party providers shall notify the council of their intention to do business within the state, and the council shall maintain a listing of all certified third-party providers.

C. Municipalities and parishes that establish agreements with other governmental entities of the state or certified third-party providers to enforce the state uniform construction code shall not impose a fee for inspections not performed by the municipality or parish if a fee for the inspection was collected by the governmental entity or third-party provider that actually performed the inspection.

Our reading of La.Rev.Stat. 40:1730.40(C) and La.Rev.Stat. 40:1730.24 fails to reveal any mandatory requirement that municipalities and parishes accept third party inspections in place of inspections conducted by their respective code enforcement departments. In our view, La.Rev.Stat. 40:1730.40(C) and La.Rev.Stat. 40:1730.24 simply authorize municipalities and parishes to contract with certified third-party providers to issue permits, enforce the state uniform construction code, and provide other related services. Such authority is discretionary. Further, it appears that the provision of La.Rev.Stat. 40:1730.40(C) concerning the use of certified third-party providers refers to the scenarios described in La.Rev.Stat. 40:1730.24(B). In such instances, a commercial contractor, residential contractor, or homeowner may establish agreements with certified third-party providers to conduct plans review, inspections, and enforce the state uniform construction, provided such contractor or homeowner is exempt from the contractor licensing law pursuant to La.Rev.Stat. 37:2170. However, as stated before, our reading of these provisions fails to reveal any mandatory requirement

that municipalities and parishes accept third party inspections in place of inspections conducted by their respective code enforcement departments.

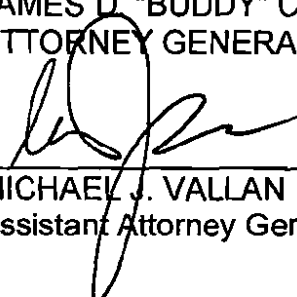
As such, it is the opinion of this office that La.Rev.Stat. 40:1730.40(C) does not require the City to accept third party inspections in place of inspections conducted by the City's Code Enforcement Department.

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:



MICHAEL J. VALLAN
Assistant Attorney General

JDC/MJV/chb