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DEPARTMENT OF JUSTICE
P.O. BOX 94005
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Opinion 15-0020

Mr. Kyle Ardoin
First Assistant Secretary of State
Louisiana Secretary of State
P.O. Box 94125
Baton Rouge, LA 70804

107-A Special Districts

La. R.S. 33:9039 *et seq.*

Members of the Lakeshore Villages Master
Community Development District are appointed by the
St. Tammany Parish Council.

Dear Mr. Ardoin,

In your request for an opinion from our office, you have asked whether the members of the Lakeshore Villages Master Community Development District ("District") are required by La. R.S. 33:9039.15 to be elected or appointed. The District is a community development district located in St. Tammany Parish.

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La. R.S. 33:9039.14 governs the establishment of community development districts and states:

A. The method for the establishment of a community development district shall be pursuant to an ordinance adopted by the governing body of the parish in which the land is located granting a petition for the establishment of a community development district. The petition for the establishment of a community development district shall be filed by the petitioner with the governing authority of the parish.

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D. An ordinance establishing a community development district shall include the boundaries of the district, the names of the five persons designated to be the initial members of the board of supervisors of the district, and the name of the district.

La. R.S. 33:9039.15 sets forth additional guidelines for community development districts, including membership and provides in pertinent part:

B (1)(a). Except as provided in Paragraph (A)(2) of this Section, commencing six years after the initial appointment of members, the position of each member whose term has expired shall be filled by a qualified elector of the district elected by the qualified electors of the district in accordance with Title 18 of the Louisiana Revised Statutes of

1950 or, if there are no qualified electors of the district, a qualified elector of the parish or municipality that created the district.

(b) However, in districts consisting of a population of less than six hundred persons, the governing authority of the parish or municipality that created the district shall appoint the members of the board.

(2) Members of the board shall be known as supervisors and, upon entering into office, shall take an oath of office. Except as provided in Paragraph (A)(2) of this Section, they shall hold office for the terms for which they were elected or appointed and until their successors are chosen and qualified. If, during the term of office, a vacancy occurs, the remaining members of the board shall fill the vacancy by an appointment for the remainder of the unexpired term.

* * * *

C. In any parish or municipality which operates under a home rule charter which provides for the governing authority of any special district lying wholly within the parish or municipality, such charter provisions shall supersede the provisions of this Chapter relating to the membership of the board.

La. R.S. 33:9039.15 (C) provides that if a community development district lies within a parish or municipality that operates under a home rule charter type of government, such as St. Tammany Parish, then the charter will supersede the provisions of Chapter 27, Title 33 ("the Community Development District Act") as it relates to board appointments.

The St. Tammany Parish Home Rule Charter ("Charter") addresses special districts in art. IX, sec. 9-02, which states:

Any special district heretofore established and existing in St. Tammany Parish shall continue to exist to effectuate the purpose for which it was created, to complete any works begun or authorized therein, to pay the debts of the district and to levy taxes and other charges as may have been or may be legally authorized in the district.

While the Charter clearly permits community development districts, it does not set forth any appointment provisions regarding membership of the districts.

The District was created by parish ordinance in the St. Tammany Parish Code of Ordinances at art. VII, sec. 18-085.00. The ordinance establishes the authority of the district, sets the boundaries, and names the first five members of the board of supervisors.¹ These regulations are established in the St. Tammany Code of Ordinances rather than the Charter. Therefore, the Charter does not supersede the

¹ St. Tammany Parish Code art. VII, § 18-0085.00 *et seq.*

provisions of the Community Development District Act as contemplated by La. R.S. 33:9039.15 (C).

Without a Charter provision providing for the governing authority of a community development district in the parish, La. R.S. 33:9039.15 (B)(1) is applicable. Generally, open seats on community development district boards are filled by election in accordance with Title 18 of the Louisiana Revised Statutes of 1850.² However, La. R.S. 33:9039.15 (B)(1)(b) provides an exception to this rule, stating that if the population of the community development district is less than 600 persons, then the governing authority of the parish that created the district shall appoint the members of the board.

According to the St. Tammany Parish Registrar of Voters, the population of the District is approximately a few dozen individuals. The population is far below the 600 person minimum set forth in La. R.S. 33:9039.15 (B)(1)(b). Therefore, the members of the District are appointed by the St. Tammany Parish Council.

We hope this opinion adequately addresses the concerns you have raised. If you have any further questions, please do not hesitate to contact our office.

With best regards,

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ATTORNEY GENERAL

BY: 
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² La. R.S. 33:9039.15 (B)(1)(a).