



JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

OCT 23 2015
OPINION 15-0058

Gregory B. Upton
2001 MacArthur Drive
Alexandria, LA 71307

Dear Mr. Upton,

90-A-1 PUBLIC FUNDS & CONTRACTS
La. Const, art. VII, Sec. 14
La. R.S. 33:9020 *et seq.*

Pursuant to La. R.S. 33:9020 *et seq.*, the Greater Alexandria Economic Development Authority, as a political subdivision of the State, may create a non-profit cooperative economic development corporation to assist the City of Alexandria in the renovation, restoration, and development of property within the City.

Your request for an Attorney General's Opinion has been assigned to me for research and reply. On behalf of the Greater Alexandria Economic Development Authority ("GAEDA"), you have requested an opinion of this office regarding whether GAEDA can create a Louisiana nonprofit corporation ("NEWCO") for the purpose of renovating, restoring and developing property in blighted and distressed areas of the City of Alexandria ("City").

La. R.S. 33:2740.60 allows the City to create, by ordinance, a special taxing district and political subdivision of the state which would promote cooperative economic development between the City and the taxing district. R.S. 33:2740.60 states, in pertinent part:

B. The governing authority of the city of Alexandria may, by ordinance, create a special taxing district and political subdivision of the state to provide for and promote the economic development of the city of Alexandria in order to provide for the renovation, restoration, and development of property in the city.

C. The special taxing district is created for the purpose of cooperative economic development between the city of Alexandria and the special taxing district.

D. The district shall have as its purpose cooperative economic development between the city of Alexandria and the district, in order to provide for the renovation, restoration, and development of property in the city of Alexandria and district and to pay the costs of capital improvements relating thereto, and to engage in cooperative endeavors with the state

and its political subdivisions or political corporations, with the United States or its agencies, or with any public or private association, corporation, or individual.

Upon creation, the purpose of such a taxing district would be to cooperate with the City in order to renovate, restore, and develop property within the City. Pursuant to this authority, the City passed Ordinance No. 286-2003 which created the Greater Alexandria Economic Development Authority "with all of the powers provided by the Act [La. R.S. 33:2740.60] or other statutory or constitutional provisions applicable thereto...." You now ask whether GAEDA has the legal authority to create a nonprofit corporation to pursue the same purposes as GAEDA.

La. R.S. 33:9023 provides the state and local government subdivisions the authority to create and organize nonprofit economic development corporations.

A "local governmental subdivision" is defined in La. R.S. 33:9022 as:

(5) "Local governmental subdivision" means any parish, municipality, port commission, port harbor and terminal district, or any economic development district or authority created as a political subdivision of the state as defined in the Constitution of Louisiana.

Prior to organization of any such nonprofit corporation, La. R.S. 33:9023(A) requires that the governing authority of the local governmental subdivision "shall declare a need for such a corporation." The requirements for the approval of an application to create a nonprofit economic development corporation are contained in subsequent paragraphs of the same section and include, in pertinent part, as follows:

B. Any group of three or more persons may apply to the legislature of the governing authority of a local governmental subdivision of the state in writing for permission to organize and be designated an economic development corporation. Each application shall include proposed articles of incorporation, bylaws, description of proposed corporate structure and a full and complete listing of the assets of the proposed corporation. Each application shall also include a proposed economic development plan. Said plan shall provide an overall policy and plan of action, stating goals and objectives for alleviating the conditions of economic distress affecting the jurisdictions in which said corporation is to act. It shall set out the geographic location in the affected jurisdiction where local economic development activities should be directed to achieve maximum effort which area upon the approval of the governing authority shall be designated an economic development area, and shall specify, so far as practical the types of activities that may best achieve the purpose of increasing the aggregate income of the community, enabling income to be

distributed to low and moderate income persons, and creating greater job diversity by attracting and retaining job producing establishments. It shall be stated in each application whether the proposed corporation shall develop proposals on its own for projects to achieve the goals and objectives stated in its proposed plan or whether it will issue request for proposals from other public or private association, corporation, or individual for economic development projects.

* * *

E. After receipt of said application from a proposed economic development corporation the legislature or the governing authority of a local government subdivision acting under the provisions of this Chapter shall hold at least one public hearing for the residents and property owners of the proposed affected jurisdiction or economic development area after notice given ten days prior to the date thereof in a newspaper of general circulation to the affected jurisdiction. After said public meeting, the respective governing authority shall by a majority vote of its members approve, disapprove, amend, or change the application of said proposed corporation. Approval of the application by said governing authority, along with the approval of the governor or chief executive officer of such local governmental subdivision acting hereunder, shall act as authorization for the proposed corporation or corporations to exercise the powers granted herein for the purposes established by this Chapter and set forth in said corporation's economic development plan.

F. Before approval of the legislature or such local governing authority is granted as provided herein, but subsequent to the submittal of said application to the legislature or such local governing authority, the proposed corporation shall have submitted said economic development plan to the designated state and regional clearinghouses for review and comment as to the conformity of said application and economic development plan to the state and region's overall economic development goals. Within thirty days of receipt of said plan for review, the state and regional clearinghouses shall submit its written comments to the governing authority of the affected jurisdiction or economic development area. After receipt of said comments, or if no action has been taken by the state and regional reviewing agencies within the thirty day period prescribed herein, the governing authority, shall proceed as specified above to approve, disapprove, amend, or change the application submitted by the proposed corporation or corporations.

G. After final approval of said application the governing authority of the affected jurisdiction may approve funds for the capitalization and operation of said corporation for the furtherance and implementation of its economic

development plan, at a regular meeting or at a special meeting called for that purpose.

H. After final approval, a certificate setting forth the findings and declarations of such governing authority acting hereunder and signed by the respective chief executive officer shall be filed by said corporation with the secretary of state and with each parish recorder of mortgages of the affected jurisdiction or economic development area along with the articles of incorporation of said corporation as provided for hereinbelow.

I. Economic development corporations shall be subject to audit by the legislative auditor under the provisions of R.S. 24:513.

Accordingly, provided that GAEDA complies with the requirements set forth in La. R.S. 33:9020 *et seq.*, it is the opinion of this office that GAEDA, as a political subdivision of the state, has the authority to establish a nonprofit cooperative economic development corporation for the purposes of assisting the City of Alexandria in renovating, restoring and developing property in blighted and distressed areas of the City.

We hope this sufficiently answers your inquiry; however, if we may be of further assistance, please do not hesitate to contact our office.

With best regards,

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Attorney General

By:



ANDREA BARIENT
Assistant Attorney General