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DEPARTMENT OF JUSTICE
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January 24, 2024
OPINION 23-0132

The Honorable Royce Duplessis
Senator, District 5
643 Magazine Street
Suite 302
New Orleans, LA 70130

107-A SPECIAL DISTRICTS

La. R.S. 33:130.865.1

The time periods contained in La. R.S. 33:130.865.1 are not required to be exhausted by New Orleans Office of Economic Development or the New Orleans City Council in order for the approval or disapproval of a PILOT proposal.

Dear Senator Duplessis:

You have requested an opinion from our office regarding time periods contained in Act 212 of the 2023 Regular Session. Your request has been assigned to me for research and reply.

Act 212 of the 2023 Regular Session enacted La. R.S. 33:130.865.1, which allows the New Orleans Exposition Hall Authority Growth and Development District ("District"), and any subdistricts thereof, to provide economic development incentives in the form of payment-in-lieu-of tax ("PILOT") agreements. Louisiana Revised Statute 33:130.865.1(B)(4) sets forth the approval process of the proposed PILOT agreements and provides, in pertinent part, the following:

the office of economic development shall have forty-five days from the date that the proposal is received to review the payment in lieu of tax proposal, pursuant to those standards in this Section and any additional requirements which may be adopted by the office of economic development, and transmit a recommendation of approval or denial to the New Orleans City Council through the Clerk of the City Council. The city council shall have fifteen days from the date that the proposal is received by its clerk to review the payment in lieu of tax proposal, followed by an additional thirty-day period to adopt a resolution disapproving or approving, with or without amendments, the proposal. The thirty-day approval period shall include a hearing before the city council economic development committee, which may recommend a vote of disapproval, approval, or approval with amendments on the resolution to the full city council.

Turning to your first question, you would like to know if the New Orleans Office of Economic Development ("Office") is required to exhaust the entire forty-five day review period afforded to it before it can transmit its recommendation to the New Orleans City Council ("City Council"). The starting point for the interpretation of any statute is "the

language of the statute itself.”¹ The basic tenets of statutory construction and interpretation which apply to the statute are found in the Louisiana Civil Code and Title 1 of the Louisiana Revised Statutes. Your attention is directed to the following articles of the Louisiana Civil Code and Louisiana Revised Statutes:

La. C.C. art. 9: When a law is clear and unambiguous and its application does not lead to absurd consequences, the law shall be applied as written and no further interpretation may be made in search of the intent of the legislature.

La. C.C. art. 11: The words of a law must be given their generally prevailing meaning. Words of art and technical terms must be given their technical meaning when the law involves a technical matter.

La. C.C. art. 13: Laws on the same subject matter must be interpreted in reference to each other.

La. R.S. 1:3 Words and phrases shall be read with their context and shall be construed according to the common and approved usage of the language. Technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in the law, shall be construed and understood according to such peculiar and appropriate meaning. The word “shall” is mandatory and the word “may” is permissive.

This office has reviewed the language of La. R.S. 33:130.865.1 using the foregoing rules of statutory construction. The statute clearly and succinctly allows the Office *up to* forty-five (45) days from the date the proposal is received to review any PILOT proposal and transmit a recommendation of approval or denial to the New Orleans City Council. We find no language within La. R.S. 33:130.865.1 to require the Office to exhaust all forty-five days prior to transmitting its recommendation to the City Council. Therefore, it is the opinion of this office that the Office may send its recommendation to the City Council clerk prior to the conclusion of the forty-five (45) day time period.

You have also asked this office if the city council is required to exhaust the entire fifteen (15) day review period afforded to it before it can commence the thirty (30) day legislative period. Utilizing the same tenets of statutory construction outlined above, the plain language contained in La. R.S. 33:130.865.1 provides that the City Council must have fifteen (15) days from the date its clerk receives the PILOT proposal to review the proposal. However, the statute does not require the City Council to exhaust the entire fifteen day review period prior to commencing the thirty (30) days legislative period. Therefore, if the City Council reviews the PILOT proposal prior to the conclusion of the allotted fifteen day period, it may proceed into the thirty day legislative period.

¹ *Touchard v. Williams*, 617 So.2d 885, 888 (La. 1993), superseded on other grounds by statute in *Dumas v. State ex rel Dep't of Culture, Recreation & Tourism*, 02-0563 (La. 10/15/02), 828 So.2d 530; *Theriot v. Midland Risk Ins. Co.*, 95-2895 (La.5/20/97), 694 So.2d 184,186.

Finally, you have asked this office if the Office of Economic Development or the City Council chooses not to utilize all of the review time afforded by the legislature, is the City Council's recent vote to approve the PILOT invalid. In light of our answers to your two previous questions above, the answer to your question is clear. Since the City Council is not required to exhaust the time periods allowed via statute, its action to approve the PILOT is not invalid.

It is the opinion of this office that the time periods contained in La. R.S. 33:130.865.1 are not required to be exhausted by New Orleans Office of Economic Development or the New Orleans City Council in order for the approval or disapproval of a PILOT proposal.

We trust that this adequately responds to your request and the issue that you have raised. If our office can be of any further assistance, please do not hesitate to contact us.

With best regards,
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BY: 
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