

September 7, 2000
OPINION 00-186

Mr. Robert E. Billiot
City of Westwego
Office of the Mayor
419 Avenue A
Westwego, Louisiana 70094

90-A-2 PUBLIC FUNDS - LOAN, PLEDGE OR GRANTS
Article 7, Section 4 of the Louisiana Const. of 1974
La. R.S. 39:1410.60

The City of Westwego may provide a property tax credit to the seller of property in lieu of a purchase price if the credit and purchase price are of equal value. However, if the credit is to be in place for more than one year, the City must seek the consent and approval of the State Bond Commission to do so.

Dear Mayor Billiot:

We received your request for an opinion on behalf of the City of Westwego concerning the purchase by the City of private property. The City would like to extend a property tax credit to the seller in lieu of the purchase price.

As indicated in your request, this issue must be addressed in light of Article 7, Section 14 of the Louisiana Constitution of 1974. This Article prohibits the state or any political subdivision of the state from loaning, pledging, or donating public funds, credits, property, or things of value to or for any person, association, or corporation. Our jurisprudence indicates that Article 7, Section 14 is violated any time the state or one of its political subdivisions seeks to give up something of value when it is under no obligation to do so. *City of Port Allen v. La. Municipal Risk Agency*, 439 So.2d 399 (La. 1983). We previously opined that "obligation" means that the expenditure of public funds is in the discharge of a legal duty. Atty. Gen. Ops. 99-307 and 98-432. The City of Westwego may purchase immovable property and would be legally obligated to the seller for the purchase price. As long as the purchase price and credit are of equal value so as not to be considered a donation, there is no constitutional violation.

However, it is our understanding that the credit given by the City to the seller would be in place for a number of years in order to equal the purchase price. The City, pursuant to this type of arrangement, is incurring a debt and pursuant to Article 7, Section 8 of the Constitution and La. R.S. 39:1410.60, the City would have to seek the consent and approval of the State Bond Commission. In conjunction with that, the City would have to demonstrate that it is authorized by the constitution or by statute to do so. We are unaware of any statutory or constitutional authority to provide for such an arrangement. Additionally, the City would have to take into consideration any of its existing debt for which tax receipts are pledged. It is our understanding that the City has no such debt at this time.

Therefore, it is our opinion that the City of Westwego may provide a property tax credit to the seller of property in lieu of a purchase price if the credit and purchase price are of equal value. However, if the credit is to be in place for more than one year, the City must seek the consent and approval of the State Bond Commission to do so.

We trust that this responds to your request. If you have any questions, whatsoever, please do not hesitate to contact our office.

Very truly yours,

RICHARD P. IEYOUNG
ATTORNEY GENERAL

BY: _____
TINA VICARI GRANT
ASSISTANT ATTORNEY GENERAL

RPI/TVG/crt

SYLLABUS

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Mayor Robert E. Billiot
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Office of the Mayor
419 Avenue A.
Westwego, Louisiana 70094

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