



Office (504) 658-1060 1300 Perdido Street • Suite 2W40 New Orleans, Louisiana 70112

New Orleans City Conneil

July 1, 2019

The Honorable Erroll G. Williams, Assessor Orleans Parish 1300 Perdido Street City Hall Room 4E01 New Orleans, LA 70112

Dear Assessor Williams,

I want to thank you and your staff for engaging with us on this critical issue of tax fairness in Orleans Parish. I appreciate the hard work by your team to ensure equitable tax assessments across our city.

One of the initiatives that my office and I have dove into during our time here on the Council is to identify resources to help tackle the systemic and long-term challenges that our city continues to face. This is why I passed a law to enable local controls over industrial tax exemptions, a particularly popular tax relief granted to mostly large corporations. These new rules specifically and directly tie these incentives to real, quality job creation for our people.

Through this effort, we've begun to review the ongoing industrial tax exemptions (ITE) that have been granted in our city. As you know, through both our in-person meeting and subsequent correspondence, we've been concerned with some specific ITEs that appear to have been cancelled by Louisiana Economic Development (LED) for failure to properly file renewals through the State Board of Commerce and Industry.

According to our research, it appears that at least two of these ITEs are in fact no longer valid. This means that the city is in fact likely owed hundreds of thousands of dollars of back taxes (and potential penalties). Specifically, those are ITEs #20100720-A and #20100917-A. According to documentation filed by LED (and available to assessors electronically through emailed FASTLANE notices or dedicated LED portal), each of the above referenced ITEs were up for required renewal in 2017 and through subsequent inaction, were denied by the State Board of Commerce at their October 31, 2018 meeting. An appeal from the Company failed on February 27, 2019, meaning these exemptions have been invalid since the 2017 tax year.

As the record-keeper for all property tax statuses, it is of course incumbent that your office stay upto-date regarding the tax exemption status of all state-granted ITEs. Your letter suggests that the exemptions are granted initially for a 10-year period, but that is incorrect. The Louisiana Constitution states, "The exemption shall be for an initial term of no more than five calendar years, and may be

renewed for an additional five years." As you can see, the exemption as contemplated in the 1974 Constitution is not for ten years, but rather for five years with a potential for five year renewal.

Monitoring that renewal date for each exemption granted in our city is essential to ensuring tax fairness for all citizens regarding the generous ITE program. Dollars not collected on ineligible exemptions deprive our city of vital resources that could be deployed to fix our streets, maintain our aging drainage system, or create needed early childhood services, among many other priorities.

I know we are both especially concerned with making our city more affordable for our people and lifting burdens by enhancing equity across the board to help make everyday life easier. Please let me know when you are able to review the attached documentation and take action against ineligible ITEs, as well as other exemptions that are either inactive or unfairly maintained.

Our people deserve this level of accountability. Doing so is not only fair to all, but also gives us the best chance of collecting the share of resources that our people have already asked us to collect and spend to better their lives.

Thank you for your continued partnership and work on behalf of the people of New Orleans.

Sincerely,

Helena Moreno

President, New Orleans City Council

¹ Louisiana Constitution of 1974, Article 7.21(F)

1300 Perdido Street | City Hall-Room 4E01 | New Orleans, Louisiana 70112

July 26, 2019

The Honorable Helena Moreno
Councilmember At Large
City Hall – Suite 2W40
1300 Perdido Street
New Orleans, La. 70112

RE: ITE #20100720

ITE: #20100917

Dear Councilmember Moreno:

The Orleans Parish Assessor's Office acknowledges receipt of your correspondence dated July 1st, and 18th on the above referenced properties which apparently have Industrial Tax Exemption contracts that will not be renewed for another five years. We are thankful for you bringing to our attention the result of their status from the last Louisiana Economic Development meeting.

I apologize for not responding sooner however, the annual preparation of our 2020 tax rolls are our priority and needed our attention. The cancellation of Industrial Tax Exemption contracts are also part of this annual process. However, we do not cancel these type exemptions until we receive a written notice of cancellation from the Louisiana Department of Economic Development. Exemptions are issued and cancelled under the guidelines of La. 47:1966 which ensures local governments receive the revenues they are entitled. The Louisiana Tax Assessors Association recently met and developed recommended policies for the handling of these type contracts in full view of recent law changes to Industrial Tax Exemptions.

Thank you for reminding us on how vital the timing of our exemption cancellations are and its impact on the City's revenue stream and service delivery. I am sorry to learn our failure to move on cancelling these contracts based upon your updates on their status made it appear that the assessor's office does not understand its role in government.

While we do understand your interest in this matter, we disagree that there is a critical issue of fairness and that we are ignoring the cancellations.

This is not the case as a former City's Director of Finance and Chief Administrative Officer, I understand the City's financial situation and have embraced your agenda and coordinated with all departments when there is a common agenda. I am hopeful that in the future our relationship will continue to be just as fruitful.

To help you understand this process, please be advised that in Orleans Parish, August 1st each year determines if a property is exempt or taxable for the forthcoming tax year. This means that an exemption once granted is good for the entire tax year per judicial decisions unless it is a government owned property where the rules are different. Any issuance or cancellation of an exemption (i.e., ITE, RTA, IDB) granted after a tax year has been closed is processed by the assessor's office when necessary and requires the approval of the Louisiana Tax Commission under La. R.S. 47:1990.

While we do appreciate your concerns for this process, the assessor's office is aware of its role and responsibility to all branches of government. We will cancel these exemptions at the appropriate time and will continue to carry out our duties in the best interest of both the City and the citizens of New Orleans.

Sincerely,

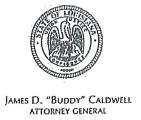
Erroll G. Williams, Assessor

Parish of Orleans

CC:

Marina Kahn

Lisa Ross



State of Linuisiana DEPARTMENT OF JUSTICE CIVIL DIVISION SHREVEPORT 71101-5537

430 FANNIN STREET SUITE 309 TEL: (318) 227-3790 FAX: (318) 676-7144

APR 0 2 2008 OPINION NO. 07-0128

4 - ASSESSORS 127 - TAXATION - REASSESSMENT La. Const. 1974 Art. 7 §18(F) § 23(B) and § 23(C)

Mr. Michael Wooden, CLA Assessor, Morehouse Parish P. O. Box 1177 Bastrop, LA 71221-1177

Dear Mr. Wooden:

While a reassessment year must occur every four years, it may occur earlier to increase revenue. Additional property can be added to the tax rolls or the millage may be increased to the prior year's maximum authorized millage rate to generate more tax revenue. Also, a proposal may be submitted to the voters to approve a tax increase.

Your request for an Attorney General's opinion has been forwarded to me for research and reply.

Specifically, you ask:

If our parish has a large reduction in assessed value, such as our largest taxpayer going out of business, would the assessor be mandated to declare it a reassessment year and furnish the taxing bodies with the necessary millage adjustment forms for them to adjust their millages?

The constitutional provisions which are applicable to your question are La. Const. of 1974 Art. 7, § 18(F), § 23(B) and § 23(C). These provisions are as follows:

§18. Ad Valorem Taxes

(F) Reappraisal. All property subject to taxation shall be reappraised and valued in accordance with this Section, at intervals of not more than four years.

§ 23. Adjustment of Ad Valorem Tax Millages

(B) Subsequent Adjustments. Except as otherwise permitted in this Section, the total amount of ad valorem taxes

collected by any taxing authority in the year in which the reappraisal and valuation provisions of Section 18, Paragraph (F) of this Article are implemented shall not be increased or decreased because of a increases or decreases in the reappraisal or valuation or homestead exemption above or below the total amount of ad valorem taxes collected by that taxing authority in the year preceding implementation of the reappraisal; and valuation. To accomplish this result, the provisions of millage adjustments relative to implementation of Section 18 and Section 20 of this Article, as set forth in Paragraph (A) of this Section shall be mandatory. Thereafter, following implementation of each subsequent reappraisal and valuation required by Paragraph (F) of Section 18 of this Article, the millages as fixed in each such implementation shall remain in effect unless changed as permitted by Paragraph (C) of this Section.

(C) Increase Permitted. Nothing herein shall prohibit a taxing authority from collecting, in the year in which Sections 18 and 20 of this Article are implemented or in any subsequent year, a larger dollar amount of ad valorem taxes by (1) levying additional or increased millages as provided by law or (2) placing additional property on the tax rolls. Increases in the millage rate in excess of the rates established as provided by Paragraph (B) above but not in excess of the prior year's maximum authorized millage rate may be levied by two-thirds vote of the total membership of a taxing authority without further voter approval but only after a public hearing held in accordance with the open meetings law; however, in addition to any other requirements of the open meetings law. public notice of the time, place, and subject matter of such hearing shall be published on two separate days no less than thirty days before the public hearing. Such public notice shall be published in the official journal of the taxing authority, and another newspaper with a larger circulation within the taxing authority than the official journal of the taxing authority, if there is one.

According to Art. 7 § 18(F), property which is subject to taxation shall be reappraised and valued at intervals of not more than four years. Please note that "shall" means the reappraisal and valuation of property is mandatory and must occur at least every fourth year, but the reappraisal could also occur at any time.

Article 7, § 23(C) allows an increase in the millage rate which is not in excess of the prior year's authorized millage rate. This can be accomplished by a two-thirds vote of the total membership of a certain taxing authority without voter approval. The taxing authority is required to hold a public hearing in accordance with the open meetings law and after public notice of the time, place and subject matter of

Mr. Michael Wooden, CLA
OPINION NO. 07-0128
Page - 3 ---

the hearing is published on two separate days no less than thirty days before the public hearing.

With regard to the collection of additional taxes for your parish, this could be accomplished by reappraising property. Also, Art. 7, § 23(C) allows for additional property to be placed on the tax rolls or by levying additional or increased millages as provided by law. One way to levy additional millages is by the procedures described above which "roll forward" the prior year's maximum authorized millage rate. As stated before, two-thirds of the total membership of the taxing authority must vote on this after a public hearing. The only other way to levy additional taxes is for a taxing authority to adopt a proposal for additional taxes in accordance with applicable local and state laws and place this proposal before the voters for approval.

In summary, it is the opinion of this office that a reassessment year must occur every four years, but it may occur earlier. The only time the reappraisal is mandatory is if it has not been done recently and the end of the four year interval is approaching. Accordingly, the assessor is only mandated to reappraise property at least every four years but may reappraise property earlier than the four year interval. Additional property can be added to the tax rolls or the millage can be increased to the prior year's maximum authorized millage rate to generate more tax revenue. Also, a proposal may be submitted to your voters to approve a tax increase.

We trust your question has been answered. However, if you should need anything further, do not hesitate to contact this office.

Very truly yours,

JAMES D. "BUDDY" CALDWELL ATTORNEY GENERAL

FRANCES J. PITMAN

ASSISTANT ATTORNEY GENERAL

JDC:FJP:sc

WEILER & REES

Attorneys at Law

909 POYDRAS STREET, SUITE 1250 New Orleans, Louisiana 70112 (504) 524-2944 FAX (504) 524-2969 OF COUNSEL ROBERT E. ROWE*

COVINGTON OFFICE 7039 HIGHWAY 190 COVINGTON, LOUISIANA 70433 (985) 674-1443 FAX (985) 674-9082

LOUISIANA BOARD CERTIFIED
*TAX LAW SPECIALIST
†ESTATE PLANNING AND
ADMINISTRATION SPECIALIST
JALSO LICENSED IN TEXAS

JOHN J. WEILER LL.M.*†

REESE F. WILLIAMSON*

PAUL DAMIAN REES LL.M. CHRISTIAN N. WEILER LL.M.*

April 26, 2019

Via FedEx and Email

Hon. Lawrence E. Chehardy Chairman, Louisiana Tax Commission 5420 Corporate Blvd Suite 107 Baton Rouge, LA 70808

In Re: Reassessment of Orleans Parish

Dear Chairman Chehardy:

I am writing in behalf of my client Assessor Erroll G. Williams and to follow up on the Louisiana Tax Commission's July 6, 2016 Order, directing the Orleans Parish Assessor's Office to reappraise all property in Orleans Parish once and during the first year of a quadrennial assessment period.

We raise this question now since the 2020 tax year begins a new quadrennial period per Tax Commission guidance, and since the Orleans Parish tax roll for the 2020 tax period will be set in August 2019.

In light of the November 13, 2018 District Court ruling in Comeaux v. the Louisiana Tax Commission, 19th JDC, Case # 665,400, Div. 26 invalidating Section 121(A), 213(C) and 303(B)(2) of the Tax Commission's Regulations, my client considers the Louisiana Tax Commission's July 6, 2016 Order to be withdrawn and no longer valid and enforceable. This July 6, 2016 Order relies on the same legal premise found in the Regulations declared to be invalid in the District Court ruling. Namely, under the Louisiana Constitution, a duly elected tax assessor may reappraise real property only once during the quadrennial period and in the first year of the quadrennial period

Since the Tax Commission chose not to appeal this District Court ruling invalidating these Regulations, we can only conclude that you and your fellow Commissioners are in agreement with this Court ruling and have effectively withdrawn the invalid Regulations.

Obviously Assessor Williams and his office remain committed to a uniform and accurate reappraisal process for this upcoming quadrennial period. However, rather than committing to an arbitrary and hasty Citywide reassessment of all real property in Orleans Parish for the first year of the new quadrennial period, My client, Assessor Williams, and his office intend to reappraise property over the four years of the quadrennial period as permitted under the Louisiana Constitution.

Should you have any questions regarding this letter, I would be happy to appear before the Tax Commission to answer any questions. Unless we hear otherwise, we conclude that you and your fellow Commissioners agree that that the July 6, 2016 Order is withdrawn in light of the District Court's final decision in *Comeaux v. the Louisiana Tax Commission*.

Sincerely,

Christian N. Weiler

CNW/eae

cc: Hon. Erroll G. Williams

Drew Hoffman, Esq.

	Assessment Increase Cap
These are the states that place a cap on assessment Increases	
State	Сар
Arkansas	5% residential 10 % commercial
	(Except new construction or newly discovered)
California	2% (Except new construction or new sale)
Florida	3% or Consumer price index whichever is lower
	(Except new construction or improvements to existing properties or new sale)
Hawaii	6%
(County of Kauai)	
Illinois	7%
Michigan	Depends upon Consumer Price Index (not to exceed 5%)
Minnesota	2005 25% Cap
New Mexico	3% (Except sales)
New York	6% per year nor more than 20% in five years.
Oregon	3% (Except for new construction, remodeling, new subdivisions and rezoning)
Гехаѕ	10%
	These are the states that place a cap on property tax increases.
Hawaii	Circuit Breaker property tax refund to any homeowner whose tax
County of Kauai)	bill exceeds 3 % of the gross income of all the home's occupants.
daho	Districts other than schools are limited to annual increases of 3% plus allowance for growth.
Massachusetts	2.5% levy limit
Ohio	A 2 1/2% of the net gross tax charge.
Vashington DC	25% limit on property tax increase
Vashington	Limits property tax to 1% of market value (\$10 per 1000) special levies,
	such as special levies for schools, are in addition to this amount.

Hitem

With the second