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State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
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July 17, 2015
OPINION 15-0057

The Honorable Kevin Colligan
Mayor
Village of Cankton
107 Dandurand Street
Cankton, LA 70584

90-A-1 PUBLIC FUNDS & CONTRACTS
La. Const. art. VII, Sec. 14

The Village of Cankton may not reduce, set aside or adjust downwards a resident's utility bill absent any error on the part of the Village.

Dear Mayor Colligan,

Your request for an Attorney General's Opinion has been assigned to me for research and reply. On behalf of the Village of Cankton ("Village"), you have asked for our opinion as to whether the Village may adjust a citizen's water bill due to a broken pipe on the customer's side of the meter. Your request states the Village was not responsible for the break in the pipe.

The question presented must be addressed in light of La. Const. art. VII, sec. 1, which provides, in pertinent part, as follows:

Section 14(A) Prohibited Uses. Except as otherwise provided by this constitution, the funds, credit, property, or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private.

The Louisiana Supreme Court has determined that this constitutional provision "is violated when public funds or property are gratuitously alienated." *Board of Directors of the Industrial Development Board of the City of Gonzales, Louisiana, Inc. v. All Taxpayers, Property Owners, Citizens of the City of Gonzales*, (La. 9/6/06), 938 So. 2d 11, 20 (the "Cabela's" case).

Our office has further interpreted *Cabela's* to say that in order to comply with La. Const. art. VII, sec. 14(A), a public entity has no authority to set-aside, reduce, or otherwise forgive a debt owed to the public entity. See La. Atty. Gen. Op. Nos. 13-0192, 13-0079, 10-0287 and 10-0264.

Recently, in La. Atty. Gen. Op. No. 14-0055, our office addressed a similar issue regarding the ability of Water Works District #2 of St. Tammany Parish to forgive or set-aside a customer's water bill due to leaks on the customer's side of the meter. The opinion concluded that, pursuant to La. Const. art. VII, sec. 14(A), the District may not reduce, set aside or adjust downwards a particular resident's utility bill absent any error on the part of the District. The same conclusion has consistently been reached by this office. See, e.g. La. Atty. Gen. Op. Nos. 97-0425, 99-0375, 01-0316, 03-0155, 11-0187, 12-0023, and 13-0079.

In accord with the prior opinions of this office, it is our opinion that the Village may not reduce, set aside or adjust downwards a resident's utility bill absent an error on the part of the Village. To do so would violate La. Const. art. VII, sec. 14(A).

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

Yours very truly,

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Attorney General

By:


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