



ON THE BALLOT

A Report from the Bureau
of Governmental Research

NOVEMBER 4, 2014

INTRODUCTION

On November 4, voters will decide the fate of numerous state constitutional amendments and local propositions. In this report, BGR examines two proposed amendments to the Home Rule Charter of the City of New Orleans, one Orleans Parish tax proposition and two of the 14 proposed constitutional amendments.

In New Orleans, voters will face two proposed charter amendments. One would protect certain features of the reforms to the professional services contracting process set forth by order of the mayor in 2010. The other amendment would move the inauguration date for elected city officials closer to the new election date established by the Legislature.

In addition, New Orleanians will vote on a proposed new tax for operating expenses of the Orleans Parish Law Enforcement District. The new tax would gradually replace an existing tax dedicated to debt service, so that the overall tax rate will remain the same.

Finally, BGR selected two constitutional amendments for analysis because of their special significance to the New Orleans area. Amendment No. 6 would allow the City of New Orleans to seek voter approval to double two unique homestead taxes for police and fire. Amendment No. 13 would allow sales of property below fair market value in the New Orleans' Lower Ninth Ward.

This report provides an explanation of each of these five ballot items, explores the arguments for and against them, and offers positions to assist voters in making informed choices.

NEW ORLEANS HOME RULE CHARTER AMENDMENT: CONTRACTING

What It Would Do

Currently, the Home Rule Charter of the City of New Orleans requires broadly that all executive branch professional service contracts be awarded through a competitive selection process established by executive order of the mayor.¹ The amendment would incorporate into the charter certain features of the professional services contracting reforms established by executive order in 2010, including a requirement that contractor selections be made by committees composed of city employees with appropriate expertise in meetings open to the public.

The amendment would also require the city to maintain a Disadvantaged Business Enterprise (DBE) program and allow the chief administrative officer (CAO), rather than the director of finance, to sign contracts in the mayor's absence.

Background and Analysis

In 2010, BGR presented a new model for professional services contracting. Mayors had long enjoyed significant discretion in choosing contractors in New Orleans, and BGR's research of best practices found little evidence to support this arrangement. Instead, best practices revealed that the city should award contracts to the firms that perform best on evaluation committees' objective and transparent scoring of proposals.

BGR's model called for the creation of a centralized procurement office and set forth the basic elements of a competitive, rational and transparent decision-making process. Among other things, it called for the selection of contractors by committees with relevant subject

matter expertise. The committees would be required to conduct their evaluations in the open using detailed criteria, weights and grading. BGR's proposal called for severely limiting the role of the mayor, requiring him to execute a contract with the successful respondent or terminate the procurement. In the latter case, he would be required to provide a written explanation.²

On June 3, 2010, Mayor Landrieu signed an executive order creating a procurement process that incorporated all of the key elements of BGR's model.³ He created a centralized procurement office and hired a professional procurement officer several months later to head it.

The proposed amendment would enshrine in the charter some, but not all, of the key components of the 2010 professional services contracting reform. Specifically, it would:

- Require that the competitive selection be made by a committee composed of at least three government employees with relevant subject matter expertise.
- Require public notice of selection committee meetings.
- Require that the selection committee review and evaluate proposals in open meetings.
- Require that the committee's records be made available to the public.
- Prohibit the mayor from being a member of any selection committee.

The amendment would allow the mayor to make exceptions to the selection process, but only in emergency situations as authorized by law.

Crafting a charter amendment is frequently a balancing act. On one side, an amendment should not be so specific that it creates potential problems that cannot be undone without another a charter amendment process. On the other side, an amendment should be specific enough to ensure that the essential elements of the reform are secure.

Unfortunately, the proposed amendment fails to incorporate certain key elements of the mayor's reforms. It does not provide for a centralized procurement office to manage and oversee the contracting process. It does not require the selection committee to use a numerical grading system based on detailed, weighted criteria. Most importantly, it does not specifically require the mayor to execute a contract with the successful respondent or terminate the procurement. The silence on this point creates ambiguity as to whether the mayor is bound by the committees' selections.

As a result of these omissions, a future administration might issue a very different executive order than the one the mayor signed in 2010. A future mayor could eliminate the chief procurement officer altogether, leaving the crafting of RFPs and the composition of selection committees to the mayor himself. A future mayor might release selection committees from the requirement to establish criteria or even score proposals at all. And the mayor might even treat the committees' selections as merely advisory and sign contracts with lower-ranked respondents of his choosing.

That said, the amendment would provide the public with more protection than the current charter provision offers. It would require the use of selection committees with subject matter expertise and require that those committees conduct their work in public. Furthermore, the amendment at least implies that the committee – rather than the mayor – would select the winning proposals for professional service procurements.

As noted above, the amendment would also give the CAO, rather than the director of finance, the power to sign contracts. This change is of little practical concern to the public. Both officials are appointed by the mayor and serve at his pleasure.

The language pertaining to DBEs, likewise, is a minor change. The city has had a DBE program in place for many years, and there is no reason to expect that it would go away in the foreseeable future. The provision contains no directives as to the content of the program, leaving the substance and quality of the program subject to change over time.

BGR Position

FOR. The proposed amendment provides the public with more protection than the current charter provision does. However, because it fails to incorporate certain key elements of the 2010 contracting reforms, citizens will have to remain vigilant to ensure that future administrations preserve the reforms.

NEW ORLEANS HOME RULE CHARTER AMENDMENT: INAUGURATION DATE

What It Would Do

Voters in New Orleans will decide whether to move the inauguration date for the mayor and members of the City Council from the first Monday in May to the second Monday in January. This amendment to the Home Rule Charter comes in response to a change in election dates for the mayor and the council made by the Louisiana Legislature in 2013.⁴

Background and Analysis

Until 1986, New Orleans held municipal elections during October and November. The winners of those elections took the oath of office the following May. In 1986, the Legislature moved the elections from November to March in order to shorten the gap between the election and inauguration dates.

Currently, primary elections are held on the first Saturday in February, and general elections are held on the fourth Saturday following the primary. Local officials are sworn in approximately two months later, on the first Monday of May.

In 2011, the League of Women Voters of New Orleans undertook a study to examine the effect that public events such as Mardi Gras and the Super Bowl had on local elections.⁵ The League came to no determination on how the events affected voter turnout. However, it found that the events impeded the administration of elections by interfering with drop-off and pick-up of voting booths and access to polling places. The League also interviewed local and state officials who said that holding local elections in the fall would reduce election

costs for the city. The study ultimately recommended moving local election dates back to the fall.

In June 2013, the Legislature moved the election dates as suggested by the League of Women Voters.⁶ Starting in 2017, primary elections will be held on the third Saturday in October, and the general election will be held on the fourth Saturday following the primary. The change in election dates created a large gap between local officials' election and their inauguration. The proposed charter amendment would ultimately reduce that gap to a couple of months, making it similar to the one under the current election schedule.

If approved by voters, the amendment would take effect in June 2018. Those officials elected in November 2017 would take office in May 2018 and would serve a truncated term that would end in January 2022, rather than in May of that year. The terms of officials currently in office would not be affected by the charter amendment.

The change would more closely align the inauguration date with the beginning of the city's fiscal year. This would give incoming mayors greater control over the spending of funds budgeted by the previous administration for their first year in office. Currently, more than four months elapse between the budget approval and the inauguration of a new mayor, allowing the outgoing administration to spend budgeted funds without considering whether sufficient funds will remain to cover needs in the second half of the year.

If the measure fails, there will be a seven-month delay between election and inauguration.

BGR Position

FOR. Moving the inauguration date would give an incoming mayor greater control over the city's finances by closely aligning the inauguration with the beginning of the fiscal year. It would also reduce the significant gap between the date of the election and the date of the inauguration of city officials that would otherwise exist.

ORLEANS PARISH: PROPERTY TAX FOR THE LAW ENFORCEMENT DISTRICT

What It Would Do

Currently, the Orleans Parish Law Enforcement District levies a 2.9-mill property tax dedicated to servicing general obligation bonds that voters authorized in 2008. The millage rate, which is set each year at a level necessary to cover principal and interest payments, is projected to decline in the coming years as the bonds are retired.

The district is proposing a new, 10-year tax that would essentially capture for other purposes the portion of the millage that the district would no longer need for debt service. The new tax would be levied at 2.9 mills minus the rate of the current tax. As a result, the millage rate of the new tax would increase as the rate of the current tax decreases, keeping the total millage levied by the district at the current 2.9 mills.

The Orleans Parish Sheriff's Office could use the new tax to pay for operations, maintenance and upkeep of the parish prison and related facilities. The tax would generate an estimated \$5 million in the first year, 2015.

Background and Analysis

The deplorable conditions at Orleans Parish Prison have long been a stain on the community. Inmate advocates and prison experts have asserted a long list of alleged constitutional violations at the prison, including frequent acts of violence, high inmate suicide rates, poor sanitation, readily available contraband, and inadequate staffing and supervision.

A 2013 federal consent decree mandates sweeping reforms at the prison. Among other things, the decree requires the Sheriff's Office to increase staffing levels significantly, provide intensive employee training, and improve medical and mental health care for inmates.⁷ Neither the Sheriff's Office nor the City of New Orleans, which is responsible for the cost of housing city inmates, have provided public estimates of how much they believe the reforms will cost. Plaintiffs in the lawsuit that resulted in the decree estimate that, when fully

implemented, the reforms will cost between \$10 million and \$22 million a year.⁸

The consent decree directs the Sheriff's Office and the city to try to reach an agreement on funding levels. If they cannot agree, the federal judge overseeing the decree resolves the matter. The court has made no final decisions on funding.

When the decree took effect in October 2013, the city provided \$1.9 million to cover implementation costs for the rest of that year. The city's 2014 budget initially included \$2 million for costs associated with the decree. The City Council allocated another \$2 million for the consent decree in August. That same month, the judge ordered the city to cover new costs associated with housing inmates with acute mental needs at a prison in St. Gabriel. Those costs will total approximately \$1.2 million in 2014.⁹ These consent decree allocations are in addition to \$29.1 million of other direct payments and on-behalf payments budgeted for the Sheriff's Office in 2014.

Officials with the mayor's office, which supports the new tax, said the city cannot afford to shoulder the entire cost going forward. It faces other major new expenses, including costs associated with a separate consent decree for the police department, which are expected to total \$55 million over five years, and a \$17.5 million judgment for underfunding the New Orleans firefighters' pension system. The sheriff claims that he has no room in his \$60.4 million operating budget to absorb the additional costs.

But one thing is clear: The money is going to have to come from somewhere. The proposed tax is an attempt to provide that funding without cutting into the city's budget or raising the current tax rate.

The Law Enforcement District. The district was created under state law to provide a dedicated funding vehicle for the Orleans Parish Sheriff's Office. For taxing purposes, the district's boundaries are coterminous with those of Orleans Parish. The sheriff is the chief executive officer and governing authority of the district. There is no multi-member governing board, and neither the City Council nor the mayor has a voice in the district's funding or operations.

Currently, the district levies a property tax of 2.9 mills to support \$55 million in general obligation bonds. The bonds were issued pursuant to an authorization given by voters in 2008 for \$63.2 million of bonds to support capital projects for the Sheriff's Office and five other criminal justice entities. The sheriff told BGR that the district would not issue the remaining \$8.2 million in bonds if voters approve the new tax.

The debt service millage is set at a rate necessary to pay principal and interest and other expenses related to the district's bonds. The tax has remained at 2.9 mills since 2008. In 2013, it generated \$8.1 million. Principal and interest payments on the district's bonds totaled \$5.5 million. The debt service fund ended the year with a balance of \$7.9 million.¹⁰

Annual debt service payments are scheduled to total about \$5.8 million from 2015 to 2018; \$3.4 million from 2019 to 2022; \$2.3 million in 2023 and 2024; and \$830,000 for the final payments in 2025 and 2026.¹¹

As principal and interest payments on the outstanding bonds fall, the debt service millage rate will decline below the current 2.9 mills.

The New Tax. The new tax would be set at a rate equal to 2.9 mills minus the rate of the existing debt service millage. As the debt service millage decreases, the new tax would increase by the same amount. The total millage levied by the Law Enforcement District would remain at the current 2.9 mills. The two taxes are expected to generate \$9.1 million in 2015, the first year of the new tax.¹² According to the district's bond counsel, approximately \$5 million of that amount would come from the new tax. The revenue from the new tax would increase in subsequent years as principal and interest payments on the bonds declined. BGR estimates that the new tax would generate more than \$60 million over its 10-year duration.¹³

Impact on Taxpayers. If voters approve the proposed tax, taxpayers would continue paying property taxes at the current rate of 2.9 mills for the Law Enforcement District. A homeowner with a homestead-exempt property valued at \$200,000 would continue to pay \$36.25. For each additional \$100,000 of value, the tax would be

\$29. Commercial property owners would pay \$40.60 per \$100,000 of value.¹⁴

If voters reject the proposition, their taxes will decline as the amount needed for debt service falls.

Using the district's tax revenue projections for 2015, BGR estimates that if the new tax were rejected, the debt service millage could be reduced by about 55% that year.¹⁵

Use of Proceeds. The ballot proposition indicates that the proposed tax would provide "additional funding for the district and the Orleans Parish Sheriff's Office, including the operation, maintenance and upkeep of jails and related facilities." The sheriff told BGR that the new revenue would be used for the care, custody and control of inmates and to maintain buildings. The Sheriff's Office has not developed a detailed spending plan.

Governance Concerns. In 1989, 2000 and 2008, BGR took positions against proposed Law Enforcement District bond issues, in part because of concerns about the district's governance. When the district was created in 1989, the Legislature approved two pieces of enabling legislation. In one version, the district was to be controlled by the sheriff, like all other law enforcement districts across the state, and in the other by the City of New Orleans. The sheriff-controlled district was implemented.

BGR argued that the city-controlled district was superior because it contained more safeguards. For instance, the City Council, which would have served as the governing board, would have been required to release a spending plan and hold public hearings before placing a new tax on the ballot.

The sheriff-controlled district lacks these basic checks and balances. As noted earlier, the sheriff is the sole governing authority of the Law Enforcement District. The City Council and mayor would have no say in how the revenue from the proposed tax would be spent. The sheriff could use it for any operating expenses that he chooses, including costs that have nothing to do with the consent decree. However, the federal court's oversight of the implementation of the consent decree provides a potential check on how the Sheriff's Office spends the

revenue from the new tax.

BGR Position

FOR. BGR remains concerned about the governance of the Law Enforcement District, and the failure of the Sheriff's Office to provide details about how the revenue from the proposed tax would be spent is troubling. But it is clear that additional revenue is needed to implement court-ordered reforms at the parish prison, and the court's oversight provides greater confidence that the sheriff will spend the funds appropriately. However, prior to the election, the sheriff should publicly commit to using the funds exclusively to meeting new expenses under the consent decree.

CONSTITUTIONAL AMENDMENT NO. 6: PROPERTY TAXES FOR POLICE AND FIRE PROTECTION IN NEW ORLEANS

What It Would Do

Currently, the constitution authorizes the City of New Orleans to levy property taxes of up to 5 mills each for police and fire protection without applying the homestead exemption. The proposed constitutional amendment would double the maximum authorized rates for the police and fire taxes to 10 mills each.

Majorities of voters both statewide and in New Orleans would have to approve the amendment for it to take effect. Any actual tax increases would have to be approved by New Orleans voters in a subsequent election.

Background and Analysis

The Louisiana Constitution shields the first \$75,000 of fair market value of owner-occupied homes from state, parish and special ad valorem taxes.¹⁶ This provision, known as the homestead exemption, does not apply to municipal taxes for general government services, except in New Orleans. There, it applies to all taxes except the police and fire taxes that are the subject of this amendment.

Because the City Council has rolled these taxes forward, they are currently levied at 5.26 mills for police and 5.21

mills for fire. They are expected to generate a total of about \$34 million this year. Increasing both taxes to the proposed new maximum of 10 mills would generate an additional \$31.6 million for the two departments.¹⁷ As noted above, any increase from the current millage levels would require voter approval at a later date.

The revenue from a tax increase could not be used to reduce or replace city funding for police and fire services as established in the baseline year of 2013. The city budgeted \$134.5 million for the police department and \$85.4 million for the fire department that year. It has not yet released its actual expenditures for 2013.

New revenue from the two taxes would have to be used for services that directly contribute to residents' safety. Officials with the mayor's office and firefighters' union told BGR they believe pension contributions, discussed below, meet that requirement.

The amendment would eliminate a current prohibition against rolling the millages forward to a level above the maximum, should property values decline. Such a roll-forward is allowed for every other ad valorem tax in the city.

Proponents of the constitutional amendment contend that it is warranted by substantial unmet needs or looming costs for police and fire services.

Officials with the mayor's office told BGR that the most pressing need for the Police Department is to increase the number of police officers. The department currently has 400 fewer officers than the mayor says are needed. The mayor's office indicated that raising salaries to attract and retain more officers is one possible use of the new tax.

According to officials from both the mayor's office and the firefighters' union, the Fire Department needs to upgrade and replace worn out equipment. In addition, as a result of underfunding, poor-performing investments and other factors, the firefighters' pension system is in a disastrous condition, and the situation is likely to worsen. Currently, the city faces a \$17.5 million judgment for underfunding the firefighters' pension fund in 2012. Union officials have indicated that they plan to seek

another \$54 million from the city for three additional years of underfunding.

We note that the little information currently available on uses for additional revenue would be insufficient to support a request for an actual tax increase. However, as noted above, the amendment is merely an authorization to request an increase. Voters will have the opportunity to evaluate specific expenditure proposals when and if they are asked to approve tax levies.

BGR has long taken the position that Louisiana's constitution unduly restricts the ability of local government to raise revenue. It does this by removing potential revenue sources, such as income and gasoline taxes, from the table and mandating exemptions from other taxes. The amendment would address a small part of the problem by expanding the city's limited ability to tax homestead-exempt property.

According to the assessor's records, more than 62,000 New Orleans homeowners take the homestead exemption. Approximately 9,500 of them have homes valued by the assessor at no more than \$75,000. This year the homestead exemption shielded \$4.5 billion of market value from most taxation. This represents more than 15% of the city's total residential and commercial property tax base of \$29.2 billion.¹⁸

BGR has consistently opposed the homestead exemption on fairness as well as fiscal grounds.¹⁹ In addition to limiting the city's revenue-generating capacity, the exemption unfairly shifts the tax burden to other property owners.

As noted at the beginning, New Orleans is the only city in Louisiana that cannot levy municipal taxes on the full value of properties covered by the homestead exemption. The amendment would bring New Orleans slightly closer to other municipalities in this regard.

BGR Position

FOR. The proposed amendment would simply allow New Orleans city government to do what every other municipality in Louisiana can already do: ask voters to approve property taxes for police and fire services that

are not subject to the homestead exemption. The amendment would provide a fairer basis for levying police and fire taxes, should the voters deem them necessary.

CONSTITUTIONAL AMENDMENT NO. 13: SALE OF LOWER NINTH WARD PROPERTIES

What It Would Do

Currently, the state constitution prohibits the donation or sale of public property at less than fair market value, with some exceptions. The proposed amendment would add an exception authorizing the New Orleans City Council to sell property in the Lower Ninth Ward to qualified purchasers as defined by law at a price the Legislature may set.

If majorities of voters both statewide and in New Orleans approve the amendment, companion legislation would require the city to sell vacant lots that the New Orleans Redevelopment Authority acquired through the Road Home Homeowner Assistance Program prior to January 1, 2015. The lots would have to be sold for \$100 each to purchasers who meet certain criteria in the legislation.

Details of Companion Legislation

The legislation would establish four prioritized tiers of qualified purchasers and impose different requirements on them.²⁰ Adjacent property owners who previously qualified under the now-defunct Lot Next Door Program would be given the first opportunity to purchase lots. The second opportunity would go to those who lease property in the Lower Ninth Ward and have lived there for at least 18 months. The third tier would include former Lower Ninth Ward residents, veterans of the armed forces, teachers, retired teachers and emergency responders, including police officers, firefighters and paramedics. The fourth tier would include anyone who agrees to build a residence on the property and reside there for at least five years.

Purchasers in the first two tiers would have to agree to retain and maintain the property for at least five years. There is no such requirement for the third tier of purchasers.

The law would prohibit the sale of lots to developers, corporate entities and anyone who has an active code-enforcement violation or outstanding tax lien against property he owns.

The law requires the City Council to establish rules and regulations to implement the program in consultation with the two legislators who represent the Lower Ninth Ward. The rules would have to include time periods for making the lots available for purchase. There would also have to be a provision to reclaim lots from purchasers who fail to meet their obligations.

The proposed constitutional amendment does not establish boundaries for the Lower Ninth Ward. The companion legislation defines the Lower Ninth Ward as the area bounded by Jourdan Avenue, Florida Avenue, the St. Bernard Parish line and the Mississippi River. This includes the Holy Cross area between St. Claude Avenue and the river, which is sometimes treated as a separate neighborhood from the Lower Ninth Ward.²¹

The companion legislation would sunset in 2024.

Background and Analysis

The proposed constitutional amendment and the companion legislation are an attempt to jumpstart the Lower Ninth Ward's recovery from the Hurricane Katrina disaster by making lots available for a nominal amount.

The Lower Ninth Ward's recovery from the Hurricane Katrina disaster has lagged behind that of the city as a whole. A recent study indicated that the number of Lower Ninth Ward residential addresses receiving mail in June 2014 was 45% of the pre-Katrina benchmark in June 2005.²² The citywide figure is 88%.

According to the New Orleans Redevelopment Authority (NORA), the demand for vacant lots in the Lower Ninth Ward through the Lot Next Door Program was the weakest among the city's neighborhoods. The broader real estate market for vacant lots in the Lower Ninth Ward has also been sluggish. In the 12-month period ending July 31, just five lots sold, according to data provided by a real estate agent.

Since 2006, NORA has sold 284 Lower Ninth Ward

lots acquired from the Road Home program. Currently it owns about 460 such lots. Approximately 450 of them are vacant and subject to sale under the companion legislation.

The Constitutional Amendment. As noted above, the state constitution prohibits the donation or sale of publicly owned property at less than fair market value, with some exceptions. One exception allows the donation of blighted or abandoned residential property to a nonprofit that agrees to maintain and renovate it.²³ The proposed amendment would add a broader exception to deal with blighted property in the Lower Ninth Ward.

Unfortunately, the proposed amendment is seriously flawed. Unlike the provision governing the sales to nonprofits, it does not require redevelopment. In addition, it allows the Legislature to set the price and determine who is eligible to buy the property. Giving the Legislature the ability to make these determinations could open the door to political favoritism.

Most importantly, the amendment allows the Legislature to inject itself into a quintessentially local matter – the strategy for neighborhood revitalization and blight eradication. These are issues that should primarily be addressed by the city and NORA. We note that NORA was specifically created to bring expertise and sustained strategic focus to the city's blight problem. Disposing of blighted or abandoned property for redevelopment is one of its core responsibilities.

The Companion Legislation. The legislation would require the city to sell former Road Home lots in the Lower Ninth Ward. There are several problems with this mandate. First, the city does not own the lots in question. They are owned by NORA, which is a separate political subdivision under state law. Second, in order to bring the lots within the constitutional authorization, the city would have to acquire them from NORA. Forcing the city to acquire and dispose of property is a usurpation of local control. It is bad policy and raises constitutional issues relating to home rule.

As noted earlier, the legislation would establish four prioritized tiers of qualified purchasers: (1) adjacent property owners; (2) certain lessors in the neighbor-

hood; (3) former Lower Ninth Ward residents, veterans of the armed forces and certain public employees; and (4) anyone who agrees to build a residence on the property and reside there for at least five years.

Proponents of the legislation contend that prioritizing buyers who have a vested interest in the neighborhood increases the likelihood for successful redevelopment of the lots. However, the likelihood of redevelopment could be increased more directly by requiring purchasers to build on the lots or incorporate them into other developed lots.

Unfortunately, the legislation lacks basic safeguards to ensure that the properties will be redeveloped. Only the fourth tier of purchasers is required to build and live on the property. Those in the third tier are not even subject to a specific maintenance requirement. They could let the properties deteriorate or flip them for a quick profit. According to the legislation's author, this is an oversight.

Urban homesteading programs that make properties available for nominal fees typically require buyers to redevelop the properties. If the properties do not have to be redeveloped, the sales price should be more closely aligned with the property's true value. The average sale price for vacant Lower Ninth Ward lots sold through the Lot Next Door program was \$2,830. The average appraised value of the remaining lots is about \$3,650.²⁴ The five lots sold on the open market in the past year went for an average of \$1.24 per square foot, or just under \$5,000 for a 4,000-square-foot lot.

It is noteworthy that the mandated \$100 sales price would fall far short of covering NORA's transaction costs, which typically total \$1,300 to \$1,500 per sale. This means that NORA would lose \$1,200 to \$1,400 on each sale. In addition to taking a loss on transaction costs, NORA officials stated that the authority would incur additional expenses to hire an undetermined number of staff members to verify purchasers' qualifications as outlined in the legislation and monitor their compliance for five years. These additional costs would be partially offset by the \$450 in annual savings on maintenance and insurance costs for each lot sold.

The companion legislation would require the City Council to establish rules and regulations to implement the program in consultation with the two legislators who represent the Lower Ninth Ward. Giving state lawmakers special standing in forming the rules for disposing of the lots is another extraordinary intrusion into the affairs of a local government.

In the same vein, the constitutional amendment and companion legislation could set a bad precedent. If the Legislature can force the city to sell former Road Home lots, what would prevent it from directing any municipality or parish to sell any piece of property under terms set by state lawmakers?

Some of the concerns raised in this report could be addressed by amending the companion legislation. For instance, the requirement that the city sell all vacant Road Home lots in the Lower Ninth Ward could be changed to allow the city and NORA to determine which lots are best suited for the program. The price for lots also could be set at a level that ensures NORA recovers its closing costs. However, there is no guarantee that any changes would be made if the constitutional amendment passes.

BGR Position

AGAINST. Given the extremely high vacancy rate in certain sections of the Lower Ninth Ward, a clear strategy for the future is warranted. However, the proposed amendment would open the way for the Legislature to usurp control from the city and NORA over the decidedly local issue of neighborhood redevelopment. The companion legislation is also seriously flawed. It lacks adequate safeguards to ensure that property is redeveloped. The sale price set forth in the legislation is arbitrary and would cause NORA to lose money on each sale. Finally, allowing state lawmakers to order local government entities to sell property under terms set by the Legislature sets a bad precedent that could be expanded to other jurisdictions.

ENDNOTES

1 Home Rule Charter of the City of New Orleans, Sec. 6-308(5) (b).

2 See *Contracting with Confidence: Professional Services Contracting Reform in New Orleans*, March 2010, at www.bgr.org/reports/Contracting-Reform-in-New-Orleans/.

3 Executive Order MJL 10-05, June, 3, 2010.

4 La. Acts 2013, Reg. Sess., No. 95.

5 League of Women Voters of New Orleans, *Celebrate or Vote: Does the calendar affect voting in Orleans Parish?*, May 2011.

6 La. Acts 2013, Reg. Sess., No. 95.

7 *Jones v. Gusman*, No. 2:12-cv-00859, E.D. La. 2012, Consent Judgment, June 6, 2013.

8 *Jones v. Gusman*, No. 2:12-cv-00859, E.D. La. 2012, Plaintiff's Joint Proposed Findings of Fact and Conclusions of Law, March 7, 2014, p. 42.

9 The court ordered the city to pay \$413,280 for renovations to the Hunt Correctional Center in St. Gabriel to accommodate Orleans Parish inmates and \$203,500 a month to cover costs associated with temporary housing of the inmates. *Jones v. Gusman*, No. 2:12-cv-00859, E.D. La. 2012, order, August 13, 2014.

10 *Orleans Parish Sheriff's Office Annual Financial Report For the Year Ended December 31, 2013*, pp. 4-13.

11 Amounts are taken from a debt service schedule provided by the Law Enforcement District. The district could use debt service reserves, which totaled \$7.9 million at the end of 2013, for portions of these payments. *Ibid.*, p. 7.

12 Based on a 100% collection rate. Orleans Parish Law Enforcement District, untitled resolution, adopted June 30, 2014.

13 BGR assumed the total assessed value of property in the city would increase at an annual rate of 1.5%. It also assumed that \$6.3 million of the district's debt service reserves would be applied to the debt during the 10-year period.

14 For commercial property, BGR assumed that land value accounts for 20% of total value.

15 The district estimates that 2.9 mills will yield \$9.1 million in 2015. Of this amount, \$5 million would be generated by the new tax for operating expenses, with the remaining \$4.1 million going to debt service. Thus, if the new tax were rejected, tax collections could be reduced by \$5 million or 55%, and the district could still meet its debt service obligations.

16 La. Const. Art. VII, Sec. 20(A)(1).

17 Office of Legislative Auditor, *Fiscal Note on HB 111 Enrolled*, May 30, 2014.

18 Information provided by the Orleans Parish Assessor's Office.

19 Bureau of Governmental Research, *Who's Behind the Tree? The Homestead Exemption and Taxpayers in the New Orleans Area*, March 2009.

20 La. Acts 2014, Reg. Sess., No. 801.

21 By not establishing boundaries for the Lower Ninth Ward, the proposed constitutional amendment would allow for a variety

of configurations. For instance, the companion legislation's boundaries do not include about a dozen residential blocks between the Industrial Canal and Jourdan Avenue.

22 BGR calculation using data from "Neighborhood Growth Rates: Growth continues through 2014 in New Orleans neighborhoods," The Data Center, August 6, 2014. The companion legislation's boundaries for the Lower Ninth Ward encompass two neighborhood statistical areas that are listed separately in the report: the Lower Ninth Ward and Holy Cross. In the Lower Ninth Ward statistical area, the number of addresses receiving mail in June 2014 was 34% of the pre-Katrina figure. The figure for Holy Cross was 72%.

23 La. Const. Art. VII, Sec. 14 (B)(5).

24 Information provided by NORA.

BGR Review Committee

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