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MUNICIPAL CORPORATIONS - LOUISIANA

Council of City of New Orleans v. Donation

Supreme Court of Louisiana - March 22, 2024 - So.3d - 2024 WL 1229122 - 2023-01106 (La. 3/22/24)

City council brought action against mayor, trust management board, and members of board, seeking declaration that agreement entered into by mayor and trust beneficiaries, under which 100-year term of trust instrument donating land to city was extended, was illegal disposition of public property to private persons and entities, impermissible modification of trust, and absolute nullity, and to enjoin defendants from making further distributions of trust proceeds to beneficiaries.

The District Court, Orleans Parish denied defendants' exception of lack of procedural capacity and granted council's motion for preliminary injunction. Board appealed. The Court of Appeal reversed and denied council's motion for rehearing. Council sought writ of certiorari, which was granted.

The Supreme Court held that city's home rule charter granted council procedural capacity.

City's home rule charter granted city council procedural capacity to bring action against mayor and others challenging agreement entered into by mayor and trust beneficiaries, under which 100-year term of trust instrument donating land to city was extended; home rule charter provisions stated that council could employ special counsel "for itself" and for "any" matter, including to "institute" suit, if council could not hire outside attorneys when its legislative branch positions conflicted with those of executive branch, including mayor and law department, then home rule charter provision expressly granting authority to council to institute "any and all suits" to protect the "rights and interests" of city would be rendered meaningless.