



LOUISIANA STATE LAW INSTITUTE
PAUL M. HEBERT LAW CENTER, ROOM W 127
UNIVERSITY STATION
BATON ROUGE, LA 70803-1016

OFFICE OF
THE DIRECTOR
(225) 578-0200
FAX: (225) 578-0211
EMAIL: LAWINSTITUTE@LSLI.ORG

January 31, 2017

Senator John A. Alario, Jr.
President of the Senate
P.O. Box 94183
Baton Rouge, Louisiana 70804

Representative Taylor Barras
Speaker of the House of Representatives
P.O. Box 94062
Baton Rouge, Louisiana 70804

RE: SCR 13 OF 2016

Dear Mr. President and Mr. Speaker:

The Louisiana State Law Institute respectfully submits herewith its interim report to the legislature relative to standing and penalties for zoning violations.

Sincerely,

A handwritten signature in cursive script that reads "William E. Crawford".

William E. Crawford
Director

WEC/puc

Enclosure

cc: Senator Wesley Bishop

email cc: David R. Poynter Legislative Research Library
drplibrary@legis.la.us
Secretary of State, Mr. Tom Schedler
admin@sos.louisiana.gov

**LOUISIANA STATE LAW INSTITUTE
COMMON INTEREST OWNERSHIP REGIMES COMMITTEE
(PRIVATE ZONING ENFORCEMENT)**

**INTERIM REPORT TO THE LEGISLATURE
IN RESPONSE TO SCR 13 OF THE 2016 REGULAR SESSION**

Relative to standing and penalties for zoning violations

Prepared for the
Louisiana Legislature on

January 31, 2017

Baton Rouge, Louisiana

**LOUISIANA STATE LAW INSTITUTE
COMMON INTEREST OWNERSHIP REGIMES COMMITTEE**

Richard Becker, Lafayette

Calvin Brasseaux, Covington

Diane Crochet, Baton Rouge

Dian Tooley-Knoblett, New Orleans

Melissa T. Lonegrass, Baton Rouge

John Lovett, New Orleans

Glenn Morris, Baton Rouge

Randy Opotowsky, New Orleans

Randy Roussel, Baton Rouge

Peter S. Title, New Orleans

J. Randall Trahan, Baton Rouge

Jeffrey Weiss, Shreveport

Special Advisor: Jerry N. Jones, Baton Rouge

Christopher K. Odinet, Reporter
Jessica G. Braun, Staff Attorney

SENATE CONCURRENT RESOLUTION NO. 13

BY SENATOR BISHOP

A CONCURRENT RESOLUTION

To request the Louisiana State Law Institute to study the feasibility of revising state law to specifically authorize a right of action and legal standing for private associations to seek injunctive relief for a zoning violation when a municipality fails or refuses to do so and a person is harmed thereby, and also to study whether present penalties for zoning violations should be revised to be comparable with those in other states.

WHEREAS, due to recent court decisions there appears uncertainty in Louisiana law regarding the right of action and standing of a private association to seek injunctive relief for a zoning violation when a municipality fails or refuses to do so and a person is harmed thereby; and

WHEREAS, there appears further uncertainty as to whether present penalties for zoning violations in Louisiana are comparable with penalties for similar violations in other states; and

WHEREAS, such uncertainty should be resolved in order that persons and entities in our state will have a clear understanding of their rights and duties under state law.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to study the feasibility of revising state law to specifically authorize a right of action and legal standing for private associations to seek injunctive relief for a zoning violation when a municipality fails or refuses to do so and a person is harmed thereby, and also to study whether present penalties for zoning violations should be revised to be comparable with those in other states.

BE IT FURTHER RESOLVED that the Louisiana State Law Institute shall submit a written report of its findings, together with any recommendations in the form of proposed legislation, to the Legislature of Louisiana no later than February 1, 2017.

SCR NO. 13

ENROLLED

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the
Director of the Louisiana State Law Institute.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

January 31, 2017

To: Senator John A. Alario, Jr.
President of the Senate
P.O. Box 94183
Baton Rouge, Louisiana 70804

Representative Taylor Barras
Speaker of the House
P.O. Box 94062
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**INTERIM REPORT TO THE LEGISLATURE
IN RESPONSE TO SCR NO. 13 OF THE 2016 REGULAR SESSION**

Senate Concurrent Resolution No. 13 of the 2016 Regular Session requested the Louisiana State Law Institute (“Law Institute”) to study and make recommendations regarding the authorization of a private right of action and legal standing for private associations to seek injunctive relief for a zoning violation when a municipality fails or refuses to do so and a person is harmed thereby. The resolution also called for the Law Institute to study whether present penalties for zoning violations should be revised to be comparable with those in other states. To that end, the Law Institute tasked the Common Interest Ownership Regimes Committee, comprised of lawyers and law professors with expertise in these areas, to undertake this project.

The Committee continues to meet and conduct research with regard to the approaches of other states and whether it would be in the best interest of the public for private individuals, including private associations, to have the ability to enforce zoning restrictions against other private persons. This policy decision is particularly significant due to the fact that under current law only local governments and municipalities have the ability to enforce such laws.

A final report will be submitted to the Legislature once the Committee has received full approval of its project from the Council of the Law Institute. We anticipate the possibility of having a final report to the legislature for the 2017 Regular Session.

Respectfully submitted,

Professor Christopher K. Odinet, Reporter
Common Interest Ownership Regimes Committee
Louisiana State Law Institute