



GEORGIA BUILDING AUTHORITY

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Chairman
Nathan Deal
Governor

Executive Director
Steven L. Stancil

October 24, 2016

Mr. Douglas H.R. Young, Director
Atlanta Urban Design Commission
Assistant Director, Historic Preservation,
Office of Design, Department of Planning and Community Development
55 Trinity Avenue SW
Suite 3350
Atlanta, Georgia 30303-0308

Re: Notice of Intent to Nominate Pullman Yard

Mr. Young:

The Notice of Intent to Nominate Pullman Yard as a landmark building/site dated October 6, 2016 that you directed to State Property Officer Steve Stancil has been given to me for a response. Based upon the notice that you sent, it is my understanding that a hearing regarding the nomination is scheduled for November 9, 2016 at 4 pm. This letter is to advise you that the State of Georgia owns the property identified as Pullman Yard (your notice identifies the property as Pratt-Pullman Landmark Building/Site), and the State does not acknowledge the City's legal authority to nominate the property for historic or landmark designation.

Your notice indicates that you are relying upon City of Atlanta Code of Ordinances for the authority to nominate and designate the property as a historic landmark. Based upon the fact that the property in question is owned by the State, the Law Department has advised that the property is not subject to local historic preservation ordinances. Note that O.C.G.A. § 1-3-8 provides that "the state is not bound by the passage of a law unless it is named therein or unless the words of the law are so plain, clear, and unmistakable as to leave no doubt as to the intention of the General Assembly."

The State of Georgia enacted the Historic Preservation Act in 1980. This state Act authorized the counties and municipalities to enact ordinances providing for the "protection, enhancement, perpetuation, and use of places, districts, sites, buildings structures, and works of art having a special historical, cultural, or aesthetic interest or value." 1980 Ga. Laws 1724-25. It is pursuant to this Act that the City of Atlanta was given the authority to adopt the ordinances upon which you now rely to seek to designate Pullman Yard as a historic landmark. However, a local government

does not have the power to enact any ordinance that conflicts with a general law. Georgia Constitution Article III, Section VI, Paragraph IV(a) provides that “[l]aws of a general nature shall have uniform operation throughout this state and no local or special law shall be enacted in any case for which provision has been made by an existing general law, except that the General Assembly may by general law authorize local governments by local ordinance or resolution to exercise police powers which do not conflict with general laws.” This Constitutional provision serves as the basis for the concept of “state preemption” that applies in the present case. In short, if the state has enacted a general law that covers the same subject matter that is addressed in a local ordinance, the state law preempts the application of the local ordinance.

In the present case, the State has adopted general laws that preempt the application of a local ordinance in regard to state-owned properties. O.C.G.A. §12-3-50, et. seq. reserves to the State certain powers and duties in regard to the historic preservation of state-owned properties. For example, see O.C.G.A. § 12-3-52 which provides in part: “The State of Georgia...reserves to itself the exclusive right and privilege of exploring, excavating, or surveying all ..historic sites...found on all lands owned or controlled by the state...”. Another example of the preemption of local ordinance by state law can be found in O.C.G.A. § 12-3-55(b): “The heads of all state agencies shall assume responsibility for the preservation of historic properties which are owned by such agency.”

The Georgia Building Authority is the owner of Pullman Yard. Mr. Stancil, as the Executive Director of the Georgia Building Authority and as the State Property Officer, is the authorized representative of the state property referenced in your Notice of Intent. The Georgia Building Authority and the State Property Officer object to the Notice of Intent to Nominate Pullman Yard as a landmark building/site, and request that you immediately rescind your notice. If this does not occur in writing prior to the date you have designated for a hearing (November 9), the State Property Officer would like the opportunity to appear at the hearing to present argument regarding the state law preemption of the application of the local ordinance to Pullman Yard, a state-owned property. Please provide the professional courtesy of an immediate response so adequate preparation for the November 9 hearing can be made.

Very truly yours,

C Presto
Director of Legal Services
GBA • SPC • GSFIC

Cc Steve Stancil
Marvin Woodward, Deputy State Property Officer
Dan Gordon, Chief Operating Officer, City of Atlanta
Assistant Attorney General Tanisha Thomas
Tim Keane, Commissioner, City of Atlanta Department of Planning and Community Development