



# LEGAL OPINION AND MEMORANDUM

---

TO: VILLAGE OF LAKE ORION  
LAKE ORION DDA BOARD  
VILLAGE COUNCIL PRESIDENT

FROM: Matthew Gibb, Executive Director

DATE: April 10, 2026

RE: Legal Authority and Procedure Regarding Proposed Dissolution of the  
DDA and Assignment of Its Functions to the Village Planning  
Commission

---

The Village Council is considering a proposal to dissolve the existing DDA Board and instead have the Village Planning Commission assume the functions and responsibilities currently carried out by the DDA. The DDA has been established pursuant to state law and operates as a public authority with defined geographic boundaries, dedicated funding mechanisms, and a governing board structured to represent downtown stakeholders, including property and business owners. As such, the only statutory supported means to accomplish the objective of the proposal is first, the dissolution of the DDA in its entirety.

This memorandum provides a formal legal analysis regarding whether the Village of Lake Orion may lawfully dissolve the DDA and assign its powers to the Planning Commission. This opinion is based on Michigan statutes, including the Downtown Development Authority Act (PA 197 of 1975), as amended by PA 57 of 2018, and the Michigan Planning Enabling Act (PA 33 of 2008).

## **SHORT ANSWER TO COUNCIL**

The Village of Lake Orion may not “combine” or “assign” the independent functions and powers of the DDA Board to its Planning Commission. Such act would first require complete dissolution of the DDA through strict statutory procedures as Michigan law does not authorize the transfer, delegation, or consolidation of established DDA powers with a Planning Commission or any other municipal body. If Council elects to pursue, and succeeds in, dissolution, the DDA ceases to exist as a legal entity, and its statutory powers—including tax increment financing authority—terminate. These powers cannot be reassigned or assumed by the Planning Commission.

## STATUTORY DIFFERENCES

The DDA Act establishes DDAs as separate public bodies corporate with independent authority, including TIF powers and PA 57 of 2018 did not alter this structure. A properly created DDA has the power to:

- Adopt and implement development plans and tax increment financing (TIF) plans
- Capture incremental tax revenues
- Acquire, own, and dispose of property
- Enter into contracts and finance public improvements
- Promote economic development within a defined district

The Act further requires:

- A governing board appointed in accordance with statutory criteria
- Representation reflective of the downtown district
- Independent administration of funds and programs

**In contrast**, the Planning Enabling Act establishes Planning Commissions as advisory bodies without economic development or financing authority, and is primarily responsible for:

- Preparing and maintaining the master plan
- Advising on land use and zoning matters
- Reviewing site plans and development proposals

The Planning Commission serves as an advisory and regulatory body to the legislative authority and does not possess independent economic development or financing powers.

No statutory authority exists, under either authorizing statute(s), to merge or transfer DDA powers. Municipal powers must be expressly granted, and no such grant exists here. The independent nature of this restrictive governance has been repeatedly affirmed by both the Attorney general and our Courts;

- Michigan Attorney General opinions consistently affirm that statutory authorities such as DDAs possess only those powers expressly granted by statute and cannot be restructured or merged absent legislative authorization. See, e.g., OAG No. 6281 (public authorities are creatures of statute and limited to enumerated powers); OAG No. 6941 (TIF authorities must operate strictly within statutory framework).
- Michigan courts frequently hold that municipal entities must act within statutory authority. See *Hanselman v. Wayne County Concealed Weapon Licensing Board*, 419 Mich 168 (public bodies possess only powers granted by statute). See also *City of Lansing v. Michigan Power Co.*, 183 Mich 400 (municipal corporations have only those powers expressly granted or necessarily implied).

## CONCLUSION

The only lawful mechanism available to a municipality seeking to eliminate a DDA is formal dissolution in accordance with the procedures set forth by Statute. That process requires affirmative action by the governing body of the municipality and is subject to strict conditions, including the requirement that all outstanding financial and contractual obligations be satisfied or otherwise provided for. This includes, but is not limited to, obligations arising from tax increment financing plans, bonded indebtedness, and development agreements. The municipality may not impair contractual obligations or disrupt pledged revenue streams in the course of dissolution.

Upon lawful dissolution, the DDA ceases to exist as a separate public authority, and its statutory powers terminate. This includes the authority to capture tax increment revenues and to finance development activities under the Act. Importantly, those powers do not transfer to the municipality or to any other body. They simply cease to exist. There is no statutory mechanism by which those powers may be reassigned to a Planning Commission or any other municipal entity.

The practical implication of this statutory framework is that the Village is not presented with a choice between alternative governance models for administering downtown development functions. Rather, it is presented with a binary legal decision: either to maintain the DDA as a statutorily authorized economic development authority, or to seek dissolution and relinquish the powers granted under the Act. Any attempt to create a hybrid structure in which the Planning Commission assumes the role of the DDA would be inconsistent with Michigan law and subject to legal challenge.

In addition to the absence of statutory authority, the proposed combination raises inherent legal conflicts. The Planning Commission, in its regulatory capacity, is responsible for reviewing and making recommendations on development proposals. If it were also tasked with promoting or financing those same developments, it would be placed in a position that compromises its quasi-judicial role and raises legitimate concerns regarding bias and due process. Similarly, the administration of tax increment financing revenues is governed by specific statutory requirements that are tied to the existence and operation of a DDA. Assigning those responsibilities to a Planning Commission would contravene the statutory framework and expose the municipality to significant legal and financial risk.

## RECOMMENDATION

It is recommended that the Village Council Acknowledge the legal distinction between the DDA and Planning Commission and refrain from pursuing an unauthorized consolidation

Explore alternative approaches, including:

- Improved coordination between the DDA and Planning Commission
- Joint planning sessions or liaison roles
- Strengthening alignment between development plans and the master plan