



*Lynn Fitch*  
**ATTORNEY GENERAL**  
OPINIONS

June 5, 2020

John P. Martin, Esq.  
Attorney for Parkway East  
Post Office Box 1039  
Canton, Mississippi 39046

Re: Land Sale by a Public Improvement District

Dear Mr. Martin:

The Office of the Attorney General is in receipt of your request for the issuance of an official opinion.

### **Question Presented**

May Parkway East, a Mississippi public improvement district, utilize the provisions of the county real property sale statute, Miss. Code Ann. Section 19-7-3, as an alternative to the municipal land sale statute to sell real property that it owns?

### **Background Facts**

Parkway East was created by ordinance of the Madison County Board of Supervisors as a special purpose development district under the Mississippi Public Improvement Act, Miss. Code Ann. Sections 19-31-1, *et seq.* In 2018, the Secretary of State conveyed certain tax forfeited properties to Parkway East by tax land patents. Parkway East now wishes to sell these tax forfeited properties.

### **Brief Response**

A public improvement district may utilize Miss. Code Ann. Section 19-7-3 or Section 17-25-25 to sell or otherwise dispose of real property acquired by the district.

### **Applicable Law and Discussion**

Section 19-31-17(c) grants public improvement districts the power “to acquire by purchase, gift, devise or otherwise, and to dispose of real and personal property.”

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In your request, you reference an opinion issued by our office in 2009 regarding the sale of surplus property by the Lakes of Grandview Public Improvement District. MS AG Op., *Shows* (August 14, 2009). In *Shows*, we opined that,

[t]here is no method specified in Section 19-31-1 *et seq.* for the disposal of real property by a public improvement district. In the absence of a valid statutory provision stating otherwise, a public improvement district must receive fair market value for the sale of real property. While the procedure set forth in Section 21-17-1(2)(b)(i) is applicable to municipalities, and not public improvement districts, the procedure has been approved by the Legislature as a means of determining the “fair market price” for the sale of surplus municipal real property. . . . It is the opinion of this office that the Lakes of Grandview Public Improvement District may use the procedure set forth in Section 21-17-1(2)(b)(i) for determining the fair market value of surplus real property owned by the district.

This opinion did not limit the statutory authority pursuant to which property may be sold by a public improvement district. Rather, it proposed Section 21-17-1 as a legal means by which the fair market value of property may be determined.

Parkway East was created as a public improvement district by county ordinance pursuant to Section 19-31-1, *et seq.* Miss. Code Ann. Section 19-7-3 sets forth the process by which a county may sell real property, including real property acquired by reason of tax sale. It is, therefore, the opinion of this office that, a public improvement district, as a political subdivision created by the county pursuant to Section 19-31-1, *et seq.*, may sell or otherwise dispose of real property pursuant to and in accordance with Section 19-7-3.

Furthermore, since the issuance of the *Shows* opinion, the Legislature enacted Miss. Code Ann. Section 17-25-25, which enables the governing authority of a county or municipality to sell or dispose of personal property or real property belonging to the governing authority when the property has ceased to be used for public purposes or when, in the authority's judgment, a sale would promote the best interest of the governing authority. Thus, this section may likewise afford Parkway East a statutory means by which to sell or dispose of that property acquired by tax sale, should the district make the requisite factual findings as required by the statute.

If this office may be of further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: /s/ Beebe Garrard

Beebe Garrard  
Special Assistant Attorney General