



September 30, 2021

John Keith Perry, Jr., Esq.
Attorney for Tunica County Board of Supervisors
5699 Getwell Rd., Building G5
Southaven, Mississippi 38672

Re: Legality of Allowing Chamber of Commerce to Manage County Property

Dear Mr. Perry:

The Office of the Attorney General has received your request for an official opinion.

Background

According to your request, Tunica County (the “County”) is interested in having the Tunica Chamber of Commerce (the “Chamber”) manage a county-owned property known as the Tunica RiverPark (the “RiverPark”). You enclosed a copy of a proposed agreement for this purpose with your opinion request.

Questions Presented

1. If the County grants the Chamber authority to conduct day-to-day operations at the RiverPark as part of a management agreement, can the County retain offices at the RiverPark to be used by County employees?
2. Is there a requirement for revenue generated by patrons of the RiverPark to be dispersed to the County, to then be redispersed back to the Chamber, less any rents and expenses owed to the County?

Brief Response

1. Yes. We find no prohibition on the County and Chamber agreeing, as part of a lawful management agreement, for the County to continue to use offices at the RiverPark for use by County employees.
2. The County and the Chamber, when acting on the County’s behalf in managing the RiverPark pursuant to the terms of a lawful management agreement, must at all times comply with laws

governing public funds. With respect to technical aspects of payments made between the County and Chamber, we recommend you contact the Office of the State Auditor's Technical Assistance Division.

Applicable Law and Discussion

Official opinions of this office are issued on prospective questions of state law pursuant to Mississippi Code Annotated Section 7-5-25. Official Attorney General's opinions cannot approve contracts or agreements or make factual determinations. Therefore, to the extent your request requires this office to make a factual determination or to interpret contracts—including the draft "Management Agreement" enclosed with your request—we are unable to respond by official opinion. Moreover, pursuant to Section 7-5-25, this office may only opine on prospective questions of law. An Attorney General's Opinion can neither validate nor invalidate past action. MS AG Op., *Magee* at *1 (Aug. 29, 2008). To the extent the County has already entered into some form of agreement with the Chamber whereby the Chamber will manage the RiverPark, we are unable to opine on the legality or operation of such arrangement.

With respect to your first question, we find no prohibition on the County and Chamber agreeing, as part of a management agreement that complies with all aspects of Mississippi law, for the County to use offices at the County-owned property being managed by the Chamber.

In response to your second question, we have opined that there is no authority for a municipality or county to assign management of an industrial park to a chamber of commerce with the chamber of commerce retaining all revenue generated by the industrial park. MS AG Op., *Navarro* at *1 (Dec. 8, 1995). The County and the Chamber, when acting on the County's behalf in managing the RiverPark pursuant to the terms of a lawful management agreement, must at all times comply with laws governing public funds, including the County Budget Law, codified at Section 19-11-1, *et seq.* This office has consistently opined that funds become public funds when received by a governmental entity and are then subject to the same restrictions as other public funds. MS AG Op., *Nowak* at *3 (Oct. 25, 2019). With respect to technical aspects of payments made between the County and Chamber, we recommend you contact the Office of the State Auditor's Technical Assistance Division.

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

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: /s/ Phil Carter

Phil Carter
Special Assistant Attorney General