



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

May 9, 2022

Daniel M. Martin, Esq.
Attorney, Water Valley Board of Aldermen
203 Wagner Street
Water Valley, Mississippi 38965

Re: Extinguishing Municipal Interest in Real Property with Quitclaim Deed

Dear Mr. Martin:

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

Background

According to your request, the City of Water Valley (the “City”) sold 8.443 acres of property to the Board of Trustees of Springhill North M.B. Church and their Successors in Office (“Springhill Church”) after advertising in the local paper and accepting sealed bids per a previous order of the Board of Aldermen (the “Board”). The Board accepted Springhill Church’s bid and confirmed the sale by order dated September 2, 1997, and the sale was executed on November 12, 1997.

As part of the conveyance, the City placed certain restrictions that state the property shall be used for “church purposes only” and also reserved to the City an option of first refusal to purchase the property back from Springhill Church should it ever decide to sell the same. Springhill Church now wishes to sell the property to a third party, but the restrictions and option of first refusal make it unmarketable. You also express concern that the restrictions were not part of the Board’s order authorizing the sale nor do they appear in the official meeting minutes. The City is now desirous of cancelling the restrictions and the option of first refusal while reserving only the City’s mineral rights and the right of ingress and egress to remove the same.

Question Presented

May the City execute a quitclaim deed to Springhill Church terminating all interests of the City in and to said parcel in question, except the City’s mineral rights and the right of ingress and egress to remove the same, without consideration and without going through the bid process?

Brief Response

Yes, based on Section 89-1-25 of the Mississippi Code, after an order entered on its minutes that the requisite findings have been made, the City may execute a quitclaim deed to Springhill Church relinquishing its interest in the property while reserving its mineral rights and the right of ingress and egress to remove the same. There is no need for consideration or bidding.

Applicable Law and Discussion

As an initial matter, 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). Therefore, this office cannot opine on previous actions of the Board regarding the disposal of municipal property or the Board's minutes regarding such.

Section 89-1-25 is entitled "Quitclaim deeds by school district" but also pertains to governing authorities of both municipalities and counties. It states as follows:

In all cases where a board of trustees of any school district, governing authorities of any municipality or board of supervisors of any county in the State of Mississippi has heretofore attempted to convey or to obtain title to real property or any interest therein and thereafter any question of title arises with reference to the procedure of conveyance, description of the property attempted to be conveyed or obtained or other matters connected therewith, and the governing authority of said school district, municipality or county determines by order entered on its minutes that the said political subdivision is asserting no further claim of title, that at the time of said attempted conveyance or disposition of said property, if property was conveyed or disposed of by the political subdivision, the said political subdivision did then receive the fair and reasonable market value of said property, and that a period of at least five (5) years has elapsed from the date of the said original attempted conveyance or disposition or obtaining of title of said property; the said board of trustees of said school district, **governing authorities of said municipality or board of supervisors of said county, as the case may be, is thereupon hereby authorized, in its discretion, to execute quitclaim deeds and disclaimers of title on behalf of said political subdivision**, after which any right or claim of said political subdivision in and to said realty shall be cut off and not thereafter brought into issue. Any such quitclaim deed or disclaimer of title heretofore executed by or on behalf of said political subdivision in accordance with the foregoing shall likewise be valid if executed in accordance with the provisions hereof.

(Emphasis added.) According to the statute, the City may execute a quitclaim deed to Springhill Church releasing the City's right to an option of first refusal and its right to require that the property be used only for church purposes. See MS AG Op., *Creekmore* at *1-2 (Mar. 26, 1999) (opining any municipal interest may be extinguished by quitclaim deed); MS AG Op., *Funderburk* at *2 (July 30, 1981) (indicating that municipality can transfer its interest under § 89-1-25). The Board must enter an order on the minutes that the City is no longer asserting a right to an option of first

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refusal or to require the property be used only for church purposes, that the City received fair and reasonable market value for the property when it was originally conveyed to Springhill Church in 1997, and that at least five years have elapsed since the original conveyance. It is the opinion of this office that the City may execute a quitclaim deed with the above releases, and once the quitclaim deed is executed, the City's claims shall be released, save for the reservation of mineral rights and the accompanying right of ingress and egress to remove such.

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/ Misty Monroe*

Misty Monroe
Special Assistant Attorney General

OFFICIAL OPINION