



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

September 21, 2022

William H. Davis, Jr., Esq.
Attorney, Corinth-Alcorn County Joint Airport Board
Post Office Box 1613
Corinth, Mississippi 38835

Re: Disposal of Abandoned Personal Property by a Joint Airport Board
Created Under Mississippi Code Annotated Section 61-5-37

Dear Mr. Davis:

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

Questions Presented

1. Does the Joint Airport Board have authority under Section 61-5-37 to dispose of abandoned property using the procedures outlined in Sections 19-3-85 and 21-39-21?
2. If the answer to question one is in the affirmative, which statute, Section 19-3-85 or Section 21-39-21, must the Joint Airport Board follow?
3. If the answer to question one is in the negative, which governing entity—the City of Corinth or Alcorn County—should proceed to dispose of the abandoned property in the possession of the Joint Airport Board?
4. May an owner “claim” the property simply by advising the authorities that the property is his, or does the word “claim” in the statutes require the owner to physically “recover” and take possession of the property, removing it from the airport premises?
5. In the event the abandoned property is sold, should the proceeds from such sale be deposited into the county treasury pursuant to Section 19-3-85, or into the general fund of the municipality pursuant to Section 21-39-21?

Brief Response

1. Yes. A joint airport board created under Mississippi Code Annotated Section 61-5-37 may exercise the authority of its constituent public agencies including the authority to dispose of abandoned property pursuant to Sections 19-3-85 or 21-39-21.
2. Assuming the joint agreement creating the Joint Airport Board is silent as to which statutory scheme shall be followed for the Joint Airport Board's disposal of abandoned property, the Joint Airport Board may dispose of abandoned property in accordance with either Section 19-3-85 or Section 21-39-21.
3. Based on our response to question one, this question is moot.
4. Pursuant to both Sections 19-3-85 and 21-39-21, claiming abandoned property requires filing a claim with the appropriate governing authority. The Joint Airport Board may enact regulatory procedures for filing a claim of ownership of abandoned property to comply with Sections 19-3-85 and 21-39-21. Whether a particular piece of abandoned property has been claimed and recovered is a factual determination to be made on a case-by-case basis.
5. The proceeds from the sale shall be deposited into the Joint Airport Board's fund created in accordance with Section 61-5-41.

Applicable Law and Discussion

In your request, you provide a detailed history of the airport's interactions with an owner of a specific piece of personal property located at the airport that has possibly been abandoned. Whether a specific piece of property has been abandoned is a factual determination to be made by the Joint Airport Board. We offer the following for guidance.

In response to your first and second questions, counties are authorized to dispose of abandoned personal property under Section 19-3-85, and municipalities are authorized to do the same under Section 21-39-21. Section 61-5-37 authorizes the Joint Airport Board to exercise the authority of its constituent public agencies subject to the limitations in Section 61-5-39. Therefore, when previously asked what statutory scheme a joint airport board would follow for disposing of real property, we opined that the board could follow either the county or the city statute. *MS AG Op., Dulaney* at *2 (Mar. 16, 2007). Unless the joint agreement specifies which statute shall be used when the Joint Airport Board disposes of abandoned personal property, the Joint Airport Board may dispose of the abandoned personal property using the procedures outlined in either Section 19-3-85 or Section 21-39-21.

Because we opine that the Joint Airport Board has the authority to dispose of abandoned personal property, your third question is rendered moot.

Your fourth question asks about the requirements for a known owner to claim abandoned property and thus prevent the sale of the property. Sections 19-3-85 and 21-39-21 provide essentially the same statutory scheme to be followed for disposing of abandoned property, each to be executed

by its respective governing entity. The governing authorities must post notice of the receipt or recovery of the abandoned property in at least three public places. *Id.* As you state in your request, both sections provide that the owner may “recover” his or her personal property by “filing a claim” with the appropriate governing authority, establishing his or her right to the property. *Id.* Further, both schemes state that if no person claims the property within one hundred twenty (120) days from the date notice is given, then the governing entity shall cause the property to be sold at public auction to the highest bidder for cash after first posting notice of sale in three (3) public places, either in the county or municipality depending on the statute followed, at least ten (10) days before the date of sale. *Id.*

It is the opinion of this office that once property has been determined to be abandoned, simply advising the Joint Airport Board of purported ownership without filing a claim or taking possession of the property does not meet the statutory requirements for recovering abandoned property. Sections 19-3-85 and 21-39-21 do not provide a definition or procedure for “filing a claim” or establishing a right to abandoned property. Thus, it is the further opinion of this office that in accordance with its regulatory authority under Section 61-5-37, the Joint Airport Board has the discretion to enact procedures for claiming ownership of and recovering abandoned property that comply with the above cited statutes. Whether a particular piece of property has been abandoned or subsequently claimed and recovered is a factual determination that must be made on a case-by-case basis by the Joint Airport Board and is subject to judicial review.

Finally, and in response to your fifth question, Section 61-5-41 provides that “[a]ny federal, state or other contributions or loans, and the revenues obtained from the joint ownership, control and operation of any airport or air navigation facility under the jurisdiction of the joint board shall be paid into the joint fund.” Accordingly, any proceeds from an auction where the Joint Airport Board sells abandoned personal property should be deposited into the joint fund created and maintained pursuant to Section 61-5-41.

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/ Abigail C. Overby

Abigail C. Overby
Special Assistant Attorney General