



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

September 6, 2023

Ben L. Gilbert, Jr., Esq.
Attorney, Town of Summit
Post Office Drawer 1919
McComb, Mississippi 39649-1919

Re: Appointment to Town Housing Authority Board

Dear Mr. Gilbert:

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

Question Presented

Does the language in Mississippi Code Annotated Section 43-33-1(g), which defines the “area of operation” of a city housing authority, and includes the term “city,” still allow the town of Summit (“Town”) to appoint individuals to the Town Housing Authority Board as long as they live within five miles of the Town?

Brief Response

Pursuant to Section 43-33-7, the Town may appoint individuals to serve as commissioners on the Housing Authority Board. Such individuals must reside within the territorial jurisdiction of the housing authority, which, as defined by Section 43-33-1(g), includes the Town “and the area within five (5) miles of the territorial boundaries thereof.”

Applicable Law and Discussion

Sections 43-33-1, *et seq.* of the Mississippi Code govern municipal and county housing authorities. Section 43-33-5 provides that “[i]n each *town or city* and in each county of the state there is hereby created a public body corporate and politic to be known as the ‘housing authority’ of the town or city or county.” (emphasis added). *See also* MS AG Op., *Johnson* at *1 (Dec. 7, 2007) (“Section 43-33-5 authorizes the creation of a housing authority in towns and cities.”); Miss. Code Ann. § 21-1-1 (classifying municipal corporations into cities or towns based on population). Because the statute clearly authorizes housing authorities in both cities and towns, when a section refers to a city housing authority, it necessarily includes a town housing authority. *See* MS AG Op., *Wright*

at *1 (May 2, 2014) (quoting MS AG Op., *McWilliams* at *4 (May 13, 2013) (“As a general rule, statutes or statutory provisions which relate to the same person or thing, or to the same class of persons or things or appear to be indicative of a general policy on a cognate subject matter are regarded as in pari materia.”)). It is the opinion of this office that town housing authorities would be subject to the same requirements as city housing authorities. To conclude otherwise would frustrate the meaning and intent of the municipal and county housing authority law.

Section 43-33-5 establishes municipal housing authorities in cities and towns, and Section 43-33-7 states that once the governing body of a city (or town) adopts a resolution establishing the need for a municipal housing authority, five people shall be appointed as commissioners. MS AG Op., *Barry* at *1 (Sept. 15, 2000). While Section 43-33-7 does not speak to the residency of the commissioners, this office has previously opined that “[Section] 43-33-7, discussing city housing commissioners and [Section] 43-33-131, discussing regional housing commissioners, must be read in pari materia and that city housing commissioners, like regional housing authority commissioners, must reside within the geographic boundaries of the housing authority.” MS AG Op., *Patten* at *2 (Feb. 14, 1992); *see also* MS AG Op., *Notter* at *1 (Feb. 13, 2009) (opining that municipal housing authority commissioners “must reside within the territorial jurisdiction of the housing authority as defined by Mississippi Code Annotated Section 43-33-1(g) which, in its definition of the term ‘area of operation,’ provides that in the case of a housing authority of a city, shall include such city and the area within five (5) miles of the territorial boundaries thereof.”) (citation omitted).

In conclusion, individuals may be appointed as commissioners of a municipal housing authority, which would include that of a town, pursuant to the requirements in Section 43-33-7. Individuals appointed to the town housing authority must reside within the territorial jurisdiction of the housing authority as defined by Section 43-33-1(g).

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/ *Gregory Alston*

Gregory Alston
Special Assistant Attorney General