



September 14, 2023

Colmon S. Mitchell, Esq.
Attorney, City of Batesville
Post Office Drawer 1586
Batesville, Mississippi 38606

Re: Conveyance of City Surplus Property

Dear Mr. Mitchell:

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

Background

The City of Batesville ("City") and Panola County ("County") own —as tenants in common— the former National Guard Armory building and its grounds. This real property is not being used for municipal purposes and is surplus property. The County wants to convey the real property to the local Boy Scouts.

Questions Presented

1. May the City convey its interest in this real property to the County as a donation with no consideration for the conveyance?
2. If the answer to Question 1 is yes, must the conveyance be subject to any conditions or reservations?

Brief Response

1. While there is no explicit authority for the City to donate its ownership interest in the real property to the County without consideration, Mississippi Code Annotated Section 17-25-25 may provide a method of disposal at no cost if the City makes the requisite finding of zero fair market value and enters such finding on its minutes.
2. Please see our response to Question 1.

Applicable Law and Discussion

Although Section 21-17-1 governs the sale, conveyance, or lease of surplus municipal property, and Section 17-25-25 gives municipalities general authority to dispose of real property, a municipality is generally prohibited from granting donations unless such action is “specifically authorized by another statute or law of the State of Mississippi. . . .” Miss. Code Ann. § 21-17-5(2). Except in extremely limited circumstances, which do not apply to your set of facts, Sections 21-17-1 and 17-25-25 require some type of consideration when disposing of municipal property.

However, Section 17-25-25(5) does state that if the governing authority of a municipality determines that real property belonging to the municipality has a fair market value of zero, “and this finding is entered on the minutes of the authority, then the governing authority may dispose of such property in the manner it deems appropriate and in its best interest, but no official or employee of the governing authority shall derive any personal economic benefit from such disposal.” Whether the fair market value of its ownership interest in the real property in question is zero, which could facilitate the City’s conveyance of its property interest to the County pursuant to Section 17-25-25(5), is a determination of fact to be made by the governing authorities.

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