

84-00204

OFFICE OF THE ATTORNEY GENERAL



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MAR 22 1984

Honorable John W. Thompson, II
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P. O. Box 132
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Mayors - Municipalities - Officers
and Offices

Mayor may donate land to municipal-
ity if he receives no consideration
for his donation and does not par-
ticipate in the city's decision to
accept the land.

Dear Mr. Thompson:

This is in reply to your request for an opinion of the Attorney General wherein you ask whether a mayor of a municipality may donate, without compensation, real property to the municipality of which he is mayor.

You have informed the Attorney General that the purpose for which the property in question will be used is a sewer lagoon. You have also informed the Attorney General that alternate sites were considered for the sewer lagoon, but it has been estimated that location of the lagoon at one of the alternate sites will cost the municipality an additional \$75,000 to \$100,000.

Section 11-43-12, Code of Alabama 1975, prohibits a mayor or councilmember being "directly or indirectly interested in any work, business or contract, the expense, price or consideration of which is paid from the treasury...." The Attorney General has held repeatedly that neither the mayor nor a councilmember may sell land to the city. E. g., Opinion to Honorable John C. Jay, Jr., Mayor, City of Greensboro, under date of July 8, 1982.

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However, it is the opinion of the Attorney General that under the circumstances, where no consideration, monetary or otherwise, is paid by the municipality for the land, a mayor may donate land to a municipality. Since the mayor may have a financial interest in that he may receive tax benefits from his donation, he should refrain from voting on the question of whether the city should accept his donation. §11-43-54, Code of Alabama 1975. Opinion to Honorable W. W. Rayburn, District Attorney Etowah County, under date of July 23, 1982.

We hope this response sufficiently answers your question. If we may be of further assistance, please do not hesitate to contact us.

Very truly yours,

CHARLES A. GRADDICK
Attorney General

By-



LEURA J. GARRETT
Assistant Attorney General

LJG/mi