



2010-017

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

November 24, 2009

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ATTORNEY GENERAL

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Honorable Clayton Kelly
City Clerk
City of Sheffield
Post Office Box 380
Sheffield, Alabama 35660

Municipalities – Roads, Highways and
Bridges – Corporate Limits – Colbert
County

The City of Sheffield is not authorized to
expend public funds for the maintenance
and upkeep of a bridge that is located
outside of its corporate limits.

Dear Mr. Kelly:

This opinion of the Attorney General is issued in response to your request
on behalf of the City of Sheffield.

QUESTION

Does the City of Sheffield have authority, under
Alabama law, to accept and expend public funds for the
maintenance and upkeep of a bridge that is located out-
side of its corporate limits?

FACTS AND ANALYSIS

In your letter of request, you informed this Office of the following:

In 1993, the Norfolk Southern Railroad conveyed
to the Old Railroad Bridge Company, a nonprofit
corporation, the 1840 bridge across the Tennessee
River connecting Colbert and Lauderdale Counties.
The bridge had been abandoned by the railroad.

The bridge is located from the north boundary of the City of Sheffield to the south boundary of the City of Florence. Sheffield's north boundary is the south boundary of the Tennessee River.

The Old Railroad Bridge Company proposes to convey the bridge to the City of Sheffield and for the City of Sheffield to own and maintain the bridge.

Generally, section 11-49-80 of the Code of Alabama sets forth which governmental authority, county or municipality, is responsible for controlling, managing, regulating, repairing, and improving the streets lying within that entity's corporate limits. From this authority arises the presumption that a municipality lacks authority to maintain roads outside of its jurisdiction. *See, generally*, opinions to Honorable Barrown D. Lankster, Attorney, Greene County Commission, dated October 12, 1999, A.G. No. 2000-007, at 3; Honorable Timothy Prevatt, Mayor, Town of Avon, dated November 18, 2002, A.G. No. 2003-034, at 3.

Your inquiry specifically contemplates the city's authority to maintain property outside its corporate limits. In most situations, when property is outside the corporate limits, the municipality will attempt to incorporate that area within its jurisdictional limits. Questions surround the ability or authority of the city to incorporate the bridge within its corporate limits given the location of the bridge and the questions regarding the entities that may have ownership interests in the property.

Your request states that the railroad abandoned the property as a railroad and conveyed the property to a nonprofit corporation. The bridge lies across the Tennessee River and connects Colbert and Lauderdale Counties, and it does not lie within the corporate limits of the City of Sheffield. It is not clear from the information presented to this Office what interest the nonprofit company actually owns. The Attorney General does not make findings of fact.

Section 10-5-2.1 authorizes a railroad company to transfer its abandoned right-of-way to a governmental entity in which the property is located. ALA. CODE § 10-5-2.1 (1999). According to your facts, the railroad no longer owns the property; thus, this section does not apply.

As stated above, section 11-49-80 of the Code precludes action by a governing body where the contemplated property is not within the corporate limits of that governing authority. According to the facts you presented to this Office, the bridge is located outside the corporate limits of the City of

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Sheffield. If another governmental body or bodies in which the property is located is willing to take title to the property, the City of Sheffield may, pursuant to section 11-102-1, *et seq.*, of the Code of Alabama, be able to enter into a contractual agreement with these governing body or bodies wherein the City of Sheffield could agree to maintain and use the property as contemplated by the city. *See* ALA. CODE §§ 11-102-1 to 11-102-8 (2008).

You also stated that you seek to make a public walking trail out of this abandoned railroad bridge through the Rails-To-Trails initiative. The National Trails initiative is found at 16 U.S.C. § 1241 of the United States Code. The particular section authorizing Rails-To-Trails is found at 16 U.S.C. § 1247(d). This Office does not interpret federal laws, and therefore, this opinion does not address that portion of your request.

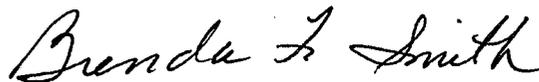
CONCLUSION

The City of Sheffield is not authorized to expend public funds for the maintenance and upkeep of a bridge that is located outside of its corporate limits.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

TROY KING
Attorney General
By:



BRENDA F. SMITH
Chief, Opinions Division

TK/MMG
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