



2010-056

STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

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Honorable Stephanie Lanier Weems  
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Birmingham, Alabama 35220-4308

Fire Districts – Liens – Statute of  
Limitations – Dues – Jefferson  
County

An action to enforce a lien for  
unpaid fire dues by the North  
Smithfield Manor and Greenleas  
Heights Fire District is subject to a  
twenty-year statute of limitations.

Dear Ms. Weems:

This opinion of the Attorney General is issued in response to your  
request on behalf of the North Smithfield Manor and Greenleas Heights  
Fire District.

QUESTION

Can the North Smithfield Manor and  
Greenleas Heights Fire District (“District”) en-  
force its lien and collect fire dues that have been  
assessed, but unpaid, back to the inception of the  
District, or is there a statute of limitations or  
other theory of law that would apply?

FACTS AND ANALYSIS

Your request states that the North Smithfield Manor and Greenleas  
Heights Fire District was organized pursuant to Act 79 of the 1966 Spe-  
cial Legislative Session. 1966 Ala. Acts No. 79, 106. You further state

that in 1980 the District began billing dues to each parcel of land located within the District. This practice has continued for each year since, and some dues have gone unpaid as far back as the time of the first billing.

Section 12 of Act 79 (1966), as amended by Act 500 (1978), gives the District the authority to charge for fire services as follows:

The expense of establishing and maintaining a district shall be paid for by the proceeds of a service charge which shall be levied and collected in an amount sufficient to pay said expense. Said service charge shall be levied upon and collected from the property owners served by the system. Such charge shall be a personal obligation of the owner of the property served by the system; and to secure the collection of the charge there shall be a lien against said property in favor of the district, *which lien shall be enforceable by sale thereof in the same manner in which the foreclosure of a municipal assessment for public improvements is authorized.*

1978 Ala. Acts No. 500, 558 (emphasis added).

This Office has explained that this provision provides for the enforcement of a fire district's lien in the same manner as a municipal assessment for public improvements. Opinion to Honorable Gene Hyche, President, Concord Fire District, dated March 7, 2001, A.G. No. 2001-109. This opinion concluded that, in accordance with section 11-48-33 of the Code of Alabama, which governs the enforcement of municipal assessments for public improvements, a fire district may seek enforcement of its lien in the circuit court and is entitled to the cost of the assessment with interest and the cost of the proceeding.

Section 11-48-34(b) of the Code of Alabama addresses the duration of municipal assessments for public improvements. It states as follows:

(b) All liens for public improvements which cities and towns of this state now have or may hereafter acquire under the general laws of this state shall continue until they are paid or extinguished or until the expiration of *20 years*

from the date of default in payment of the assessment or from the date when there was a due recognition of the indebtedness after default, after which time the enforcement of the lien shall be barred and the indebtedness conclusively presumed to have been paid.

ALA. CODE § 11-48-34(b) (2008) (emphasis added). This section provides for a twenty-year statute of limitations on the enforcement of municipal assessments for public improvements. *Williams v. Rabren*, 431 So. 2d 505 (Ala. 1983).

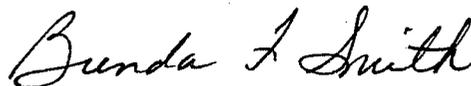
CONCLUSION

An action to enforce a lien for unpaid fire dues by the North Smithfield Manor and Greenleas Heights Fire District is subject to a twenty-year statute of limitations.

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

Sincerely,

TROY KING  
Attorney General  
By:



BRENDA F. SMITH  
Chief, Opinions Division

TK/GWB/lcr

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