2010-085

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

TROY KING
ATTORNEY GENERAL

500 DEXTER AVENUE
MONTGOMERY, AL 36130
(334) 242-7300
WWW.AGO.STATE.AL.US

July 28, 2010

Honorable Barry Mask
Member, House of Representatives
1860 Emerald Mountain Parkway
Wetumpka, Alabama 36093

Redevelopment Authorities – Municipalities – Incorporation – Private Courts – Tallapoosa County – Elmore County

A redevelopment authority for a city located in more than one county may be incorporated in only one of those counties.

Dear Representative Mask:

This opinion of the Attorney General is issued in response to your request.

QUESTION

Must the certificate of incorporation for a redevelopment authority for a city located in more than one county be filed in all of those counties under section 11-54A-5 of the Code of Alabama?

FACTS AND ANALYSIS

Redevelopment authorities are incorporated as public corporations pursuant to section 11-54A-1, *et seq.*, of the Code of Alabama. ALA. CODE § 11-54A-1 to 11-54A-25 (2008). The purpose of a redevelopment authority is to promote the general welfare and public good of a city through revitalization and redevelopment of a business district by financing various projects. ALA. CODE § 11-54A-1 (2008).

Section 11-54A-4 provides that three persons may file an application to incorporate with the governing body of a city, which is required to either deny or authorize incorporation. Section 11-54A-5 provides for the procedure to incorporate. It states that "[w]ithin 40 days following the adoption of the authorizing resolution, the applicants shall proceed to incorporate the authority by filing for record in the office of the judge of probate ***of the county wherein the city is located*** a certificate of incorporation . . . ." ALA. CODE § 11-54A-5 (2008) (emphasis added). The statute is silent as to the filing requirement for cities located in more than one county.

The fundamental rule of construction is to ascertain and give effect to the intent of the Legislature in enacting the statute. *Ex parte Ala. Dep't of Mental Health & Mental Retardation*, 840 So. 2d 863 (Ala. 2002); *Gholston v. State*, 620 So. 2d 719 (Ala. 1993). In construction of statutes, legislative intent may be gleaned from the language used, the reason and necessity for the act, and the purpose sought to be obtained. *Bama Budweiser of Montgomery, Inc. v. Anheuser-Busch, Inc.*, 611 So. 2d 238, 248 (Ala. 1992); *Tuscaloosa County Comm'n v. Deputy Sheriffs' Ass'n of Tuscaloosa County*, 589 So. 2d 687, 689 (Ala. 1991); *Shelton v. Wright*, 439 So. 2d 55, 57 (Ala. 1983).

Courts do not interpret provisions in isolation, but consider them in the context of the entire statutory scheme. *Siegelman v. Ala. Ass'n of School Boards*, 819 So. 2d 568, 582 (Ala. 2001). "Words may be supplied in a statute in order to give it effect, or to avoid repugnancy or inconsistency with the legislative intention, . . . where legislative intent is clearly indicated by the context or other parts of the statute . . . ." C. Sands, *Sutherland Statutory Construction*, § 47:38 (6th ed. 2001).

Use of the singular terms "judge of probate" and "county" in section 11-54A-5 indicate the Legislature's intent that a redevelopment authority be incorporated in one county. The Legislature could have stated that the certificate of incorporation should be filed in the office of the ***judges*** of probate of the ***counties*** wherein the city is located. It did not. This conclusion is supported by language in section 11-54A-21, which, as you correctly point out, prohibits a city from having more than one authority.

Section 11-54A-21 provides that "[t]he existence of the authority incorporated under the provisions of this chapter shall prevent the subsequent incorporation hereunder of another authority pursuant to authority granted by this chapter. ALA. CODE § 11-54A-21 (2008). An authority

comes into existence when the certificate of incorporation is filed. ALA. CODE § 11-54A-5 (2008). Therefore, a reading that the filing requirement of section 11-54A-5 applies to each county in which a city is located would be inconsistent with section 11-54A-21 because it would permit the creating of multiple authorities for the same city.

CONCLUSION

It is the opinion of this Office that the incorporators of an authority for a city located in more than one county may file the certificate of incorporation in only one of those counties of their choosing. It should be noted that nothing would prohibit the recording of a copy of that filing in the other counties in which the city is located to place the residents of those counties on notice of the creation of the authority in the incorporating county.

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

1005472/143695-002