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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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Water and Sewer Authorities – Real
Property – Leases – Office Space

The Lowndes County Water Authority
("Water Authority") is not authorized to
purchase a plaza/strip mall whereby one
office space would be used by the Water
Authority and the other office spaces
would be rented out to various businesses.

Dear Mr. Chestnut:

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

QUESTION

Whether the Lowndes County Water Authority
can purchase a plaza/strip mall whereby one office
space would be the Water Authority's office and the
other office spaces would be rented out to various
businesses.

FACTS AND ANALYSIS

In your letter of request, you stated the following:

The Lowndes County Water Authority is a rural
water authority incorporated under section 11-88-1, *et
seq.*, of the Code of Alabama. Sections 11-88-7 and
11-88-7.1 enumerate the powers of a rural water
authority such as the Lowndes County Water Authority.

The Lowndes County Water Authority currently rents an office space as its main location in Hayneville. The board of directors of the Water Authority, however, wants to know whether it is legally permissible for the Authority to purchase an entire plaza/strip mall and move its office into one of the office spaces and rent the other office spaces in the plaza to various businesses.

As noted in your request, the Lowndes County Water Authority is established as a public corporation pursuant to section 11-88-1, *et seq.*, of the Code of Alabama. A public corporation cannot exceed the powers granted to it by statute. *See Ala. Hosp. Ass'n v. Dillard*, 388 So. 2d 903, 905 (Ala. 1980). Sections 11-88-7 and 11-88-7.1 set forth the broad powers to which an authority must adhere. An authority has all the powers enumerated in these sections and any other powers incidental or necessary to the discharge of the authority's corporate purpose. *See ALA. CODE § 11-88-7(a)* (2008); *Plante v. Dallas County Water & Sewer Authority*, 560 So. 2d 1056, 1058 (Ala. Civ. App. 1989).

The Lowndes County Water Authority is authorized pursuant to section 11-88-7(5) to acquire and hold property. ALA. CODE § 11-88-7(5) (2008). The Authority may also enter into and execute contracts and leases or take such action that is necessary or convenient to accomplish any purpose for which the authority was organized or to exercise any power expressly granted. ALA. CODE § 11-88-7(6) (2008). As a general rule, a water authority is established to provide clean water to its members. Thus, it is questionable whether the leasing of excess property would be a permissible endeavor. Section 11-88-7(b) of the Code arguably prohibits such action. This section states as follows:

(b) *Nothing in this section shall be construed to permit an authority to acquire, receive, take, hold, establish, develop, construct, reconstruct, enlarge, improve, maintain, equip, or operate any property or water system, sewer system, and fire protection facility, or any part or combination of any thereof, located outside the service area, except as an incident to the rendering of water service, sewer service, and fire protection service, or any thereof inside the service area.*

ALA. CODE § 11-88-7(b) (2008) (emphasis added).

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In construing statutes, 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). In reading sections 11-88-7 and 11-88-7.1 together, the authority pronounced within these sections is clearly for the purpose of empowering water systems, sewer systems, and fire protection facilities with the authority necessary to accomplish its designated purpose. Based on the foregoing, it is the opinion of this Office that the Lowndes County Water Authority is not authorized to lease excess property when such actions are not either incidental to a purpose for which the authority was organized or an action expressly granted by statute.

CONCLUSION

The Lowndes County Water Authority is not authorized to purchase a plaza/strip mall whereby one office space would be used by the Water Authority and the other office spaces would be rented out to various businesses.

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

Sincerely,

LUTHER STRANGE
Attorney General

By:



BRENDA F. SMITH
Chief, Opinions Division

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