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Honorable Charles L. Payne, Chancellor
& Vice President
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Knox Hall, 419 South Perry Street
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Trade Schools and Junior
Colleges - Real Estate - State
Property - Conveyances

Trade School and Junior College
Authority may sell land deeded
to it. The proceeds may be
allocated by the Authority as
it deems best.

Dear Dr. Payne:

Reference is made to your request for an opinion from the Attorney General as to whether the Trade School and Junior College Authority may convey certain land and buildings formerly used by Hobson State Technical College but which is now not needed by the college.

The following facts are gathered from the request. From 1965 to 1974 the property in question was leased by the State Department of Education. In April, 1974 the building and property was conveyed as a gift to the Department of Education by the devisee of the lessor pursuant to a lease agreement entered into in 1966. The State Department of Education then transferred the deed to the property to the Trade School and Junior College Authority. Because Hobson State Technical College is now located elsewhere it is not practical or feasible for the college to maintain and utilize the property. The property has been advertised for bid and a bid has been received and negotiations have taken place regarding the sale.

Honorable Charles L. Payne, Chancellor
& Vice President
Page Two

The Alabama Trade School and Junior College Authority was established by Act No. 93 of the Second Extra Session of the 1963 Legislature. The provisions of that Act are now codified at Code of Alabama 1975, Section 16-60-80 through Section 16-60-96. It is true that there is no specific authorization to sell or convey land granted to the Authority. However, the Attorney General in several prior opinions has concluded that such a right does attach to the Authority so that it may properly perform the duties for which it was created. Opinions of the Attorney General to Honorable Frank Jackson, Member of the House of Representatives dated July 25, 1968 and to the Honorable James R. Solomon, Jr., Legal Division, State Department of Finance dated January 3, 1973. Quotating from the opinion to Representative Jackson:

"It is true that under the provisions of Act No. 93, supra, the Trade School and Junior College Authority is only specifically granted authority to 'provide for acquiring and improving sites for additional trade schools and junior colleges'. No specific mention is made of any authority to convey or exchange property either to or with the original donor, even though this be done to improve the site or provide additional facilities for the school. It is obvious that the Legislature would not wish to impose such a limitation on the Authority or any of the individual donors of property. Section 1 of Act No. 93, supra, contains a legislative finding of fact and declaration of intent with respect to the authority and purpose of the Trade School and Junior College Authority stating that it is the intention of the Legislature to authorize the formation of a public corporation for the purpose of providing for the construction and equipment of additional trade schools and junior colleges and further that, 'This Act shall be liberally construed in accordance with this intent'.

Honorable Charles L. Payne, Chancellor
& Vice President
Page Three

"Under this Act all schools are to be built on property donated to the Authority. The Authority is to construct and equip such schools and, once this is accomplished, the State Board of Education, under the authority of Act No. 94, Second Special Session 1963, p. 268, is to assume responsibility for operating and maintaining the schools. The Trade School and Junior College Authority is to remain in existence at least until all bonded indebtedness of the Authority has been retired. Under these circumstances, since all sites are donated to the Authority and are held by it during its corporate life, we would be confronted with at least a 20 year period during which no conveyance, exchange or alteration of these sites could be effected. In my judgment no such result was intended by the Legislature. Rather, it would be my opinion that such a right would necessarily attach to the Authority to enable it to properly perform the duties and functions for which created."

Considering these prior conclusions, the Attorney General now determines that the Trade School and Junior College Authority may sell the property in question under the conditions set out in the request.

You further asked for the opinion of the Attorney General as to whether the Authority should retain the proceeds of the sale and allocate their use as original proceeds from the sale of bonds or can the proceeds be paid directly to Hobson State Technical College to be used at their discretion. In that the land was deeded to the Trade School and Junior College Authority the proceeds of the sale go to the Authority. The Authority may then allocate the proceeds as it deems best. If the Authority wishes to allocate the entire proceeds from the sale to Hobson State Technical College, it may do so.

Honorable Charles L. Payne, Chancellor
& Vice President
Page Four

The conclusion of this opinion applies only to the circumstances set out herein, and cannot be extended to cover other situations without further consideration.

I hope that your questions have been adequately answered.

If our office can be of assistance to you in the future, please let us know.

Sincerely,

CHARLES A. GRADDICK
ATTORNEY GENERAL

BY:



LYNDA KNIGHT OSWALD
ASSISTANT ATTORNEY GENERAL

CAG:lo:w