



2004 - 145

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

TROY KING
ATTORNEY GENERAL

ALABAMA STATE HOUSE
11 SOUTH UNION STREET
MONTGOMERY, AL 36130
(334) 242-7300
WWW.AGO.STATE.AL.US

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Honorable William E. Shinn, Jr.
Attorney, Morgan County Commission
Harris, Caddell & Shanks, P.C.
Post Office Box 2688
Decatur, Alabama 35602-2688

County Commissions -
Contracts

The Morgan County Commission is empowered to make contracts through the Morgan County Revenue Commissioner that affect the reappraisal of county property. The Morgan County Commission has the authority to ratify the contracts in question and the payments made under the December 12, 2002, contract.

Dear Mr. Shinn:

This opinion of the Attorney General is issued in response to your request on behalf of the Morgan County Commission.

QUESTION

Whether the Morgan County Commission has authority to ratify the following contracts and the payment therefor:

(a) Contract dated December 12, 2002, between the Morgan County Commission and MD Atlantic Technologies, Inc., for the benefit of the

performance of aerial photography in Morgan County and the furnishing of related products and services and the payment by Morgan County to the contractor of \$335,427.

(b) Contract dated September 26, 2003, between the Morgan County Commission and MD Atlantic Technologies, Inc., for the benefit of the Morgan County Revenue Commissioner for the performance of aerial photography in Morgan County, Alabama, and the furnishing of related products and services.

FACTS AND ANALYSIS

The general powers and duties of a county commission are enumerated in section 11-3-11 of the Code of Alabama. The provisions regarding statewide property reappraisals are set forth in sections 40-7-60, *et seq.*, of the Code. Specifically, section 40-7-62 states that “[e]ach county governing body of this state, through its respective tax assessor, shall have the property of such county appraised at its fair and reasonable market value, which fair and reasonable market value shall be the basis of assessments for ad valorem taxes.” ALA. CODE § 40-7-62 (2000).

Further, section 40-7-69 of the Code of Alabama states as follows:

The county governing bodies of the several counties are hereby authorized to issue any revenue bonds or warrants deemed essential in accordance with existing statutes and laws of the State of Alabama to meet their financial obligations under a property reappraisal program; provided, that any revenue bonds or warrants issued for a property reappraisal program other than that required by this article shall be approved by the Legislature. The heretofore stated provision for financing is hereby authorized to be applied by the state to cover the expenses necessarily incurred to finance the reappraisal of property in any and all counties, whenever it shall become necessary for the Department of Revenue to conduct the property reappraisal program in such

county. The proceeds from such bonds or warrants issued by the state or county shall be repaid on the same proration basis as set out previously in Section 40-7-68.

ALA. CODE § 40-7-69 (2000).

Based on the aforementioned Code sections, one of the duties of the county commission is to have the property of its respective county appraised through the county revenue commissioner. To perform the appraisal duty, the county commission is authorized to issue warrants for its financial obligations under a property reappraisal program.

As stated in the facts, the funding was budgeted by the county commission and the revenue commissioner believed in good faith that she was authorized to sign the contracts at issue on behalf of the county commission because the contracts directly affected the reappraisal and other duties of her office. The contracts and the revenue commissioner's authority, however, to execute the contracts had not been approved by formal action of the county commission.

It is true that no contract can be implied against a county unless it is one that the county is by law empowered to make. *See Montgomery County v. Pruett*, 175 Ala. 391, 394, 57 So. 823, 824. And so, ratification of an unauthorized--if legally permissible--contract may be implied. *Id.* In this situation, these are contracts that the county commission, by way of the revenue commissioner, were empowered to make because the services performed under the contracts affected the reappraisal function that was a duty of the revenue commissioner's office. Thus, the county commission may ratify these contracts and authorize payment.

CONCLUSION

The Morgan County Commission is empowered to make contracts through the revenue commissioner that affect the reappraisal of county property. Based on section 40-7-62 of the Code of Alabama and *Montgomery County v. Pruett*, the Morgan County Commission has the authority to ratify the contracts in question and the payments made under the December 12, 2002, contract.


Honorable William E. Shinn, Jr.
Page 4

I hope this opinion answers your question. If this Office can be of further assistance, please contact the J. R. Gaines Jr., Legal Division, Department of Revenue.

Sincerely,

TROY KING
Attorney General

By:



CAROL JEAN SMITH
Chief, Opinions Division

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