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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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Municipalities - Counties - Leases -
Senior Citizens

A county commission may enter into a long-term lease of real estate with a city to establish a senior citizens center.

Dear Mr. Cassady:

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

QUESTION

May the Coffee County Commission enter into a long-term lease of real estate owned by the City of Enterprise to be used for a senior citizens center?

FACTS AND ANALYSIS

The City of Enterprise is in the process of beginning construction on a new senior center/multi-purpose center in Enterprise. The City of Enterprise will actually construct the facility on city-owned property. Coffee County has built and operates various senior citizen centers throughout the county, and the proposed arrangement would dedicate a portion of the facility to be used as a senior citizens center in Enterprise. The city has sought financial assistance from Coffee County for the facility.

The city has requested that the county enter into a lease agreement with the city that would obligate the county to pay the city \$50,000 per year for a twenty-year period and, in exchange, the county would use the senior citizens

center portion of the facility for senior citizen programs like those sponsored in other senior centers in Coffee County. In addition, the lease will cover such things as maintenance obligations, utility expenses, and other standard issues that similar leases cover.

Section 38-1-6 of the Code of Alabama states, in pertinent part, as follows:

(a) The state government and all county and municipal governments in this state are hereby authorized to voluntarily participate in any program which is related to any form of assistance for the aged, including, but not limited to, such programs as senior citizens volunteers, foster grandparents, senior aids, various programs of the Federal Department of Health, Education and Welfare and any other program supported by the federal government, private foundations or other political or private organizations which establish assistance programs for the aged. Participation in said old-age assistance programs may be in the form of moneys, services rendered or any other form of voluntary participation available.

ALA. CODE § 38-1-6(a) (1992).

This statute authorizes a county commission to establish and furnish recreational, social, and cultural facilities to senior citizens in the county, and such services may be administered through instrumentalities designated for that purpose. Opinion to Honorable James E. Turnbach, Etowah County Attorney, dated May 25, 2005, A.G. No. 2005-138. In view of this statute, the Coffee County Commission has legal authority to provide centers for the senior citizens of the county.

This Office has determined in previous opinions that county commissions could enter into long-term leases as a lessee. In an opinion to Honorable Neil Lauder, it was determined that the Baldwin County Commission could legally lease property for ninety-nine years to construct a building to be used as a satellite courthouse. Opinion to Honorable Neil Lauder, Chairman of the Baldwin County Commission, dated October 10, 1984, A.G. No. 85-00021.

In an opinion to Honorable Don Wambles, it was determined that the Conecuh County Commission could legally enter into a lease-sale agreement as a lessee for a term of twenty years whereby a farmers' market facility would be

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established on the property. Opinion to Honorable Don Wambles, Administrator of the Farmers Market Authority, dated July 30, 1997, A.G. No. 97-00243.

In an opinion to Honorable W.C. Buttram, it was determined that the DeKalb County Commission could legally enter, as a co-lessee, a twenty-year lease agreement between the Farmers' Market Authority and the local farmers' association. Opinion to Honorable W.C. Buttram, President of the DeKalb County Commission, dated May 16, 1984, A.G. No. 84-00283.

These opinions indicate that when a county commission is performing a governmental function, it has legal authority to enter into a long-term lease of real estate as a lessee. Because the establishment of senior citizen centers is a lawful governmental function for county commissions, it is the opinion of this Office that the Coffee County Commission can enter into the proposed lease with the City of Enterprise.

CONCLUSION

The Coffee County Commission may enter into a long-term lease of real estate with the City of Enterprise to establish a senior citizens center.

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

Sincerely,

TROY KING
Attorney General
By:


BRENDA F. SMITH
Chief, Opinions Division

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