

STATE OF MISSISSIPPI



JIM HOOD  
ATTORNEY GENERAL

OPINIONS  
DIVISION

December 21, 2018

Angela Turner Ford  
Turner Law Offices, PLLC  
Post Office Drawer 1500  
West Point, Mississippi 39773-1500

Re: Authority of Economic Development District to Declare Surplus Property

Dear Ms. Ford:

Attorney General Hood is in receipt of your request for an official opinion on behalf of the Clay County Economic Development District, and it has been assigned to me for research and reply.

### Background

Your request states, in part:

The Clay County Economic Development District was established by the Clay County Board of Supervisors pursuant to Section 19-5-99 of Mississippi Code of 1972, as amended. In accordance with statute, the property owned by the Clay County Economic Development District is managed by five qualified electors appointed by the Clay County Board of Supervisors.

The Clay County Economic Development District is contemplating the sale of a certain acreage of property, the sale of which may result in the land being used for agricultural purposes, as opposed to industrial.

### Questions Presented

1. Is the Clay County Economic Development District authorized to rely upon Section 57-7-1 to declare a certain tract of land as surplus property and sell the same for commercial/agricultural purpose?

2. If the answer to the first question is no, is the Clay County Economic Development District authorized to transfer property owned by the economic development district to the County to be managed and/or disposed of like other County Properties?

### Applicable Law and Analysis

In response, the Clay County Economic Development District was established pursuant to Section 19-5-99 of the Mississippi Code, which authorizes a district to “acquire by gift, purchase or otherwise, and to own, hold, maintain, control and develop real estate situated within the county or counties comprising such district for the development, use and operation of industrial parks or other industrial development purposes.” With regard to disposal of real estate, Section 19-5-99(5) further authorizes districts:

(a) To sell, lease, trade, exchange or otherwise dispose of industrial sites or rail lines situated within industrial parks to individuals, firms or corporations, public or private, **for industrial and warehouse use** upon such terms and conditions, and for such considerations, with such safeguards as will best promote and protect the public interest, convenience and necessity, and to execute deeds, leases, contracts, easements and other legal instruments necessary or convenient therefor. Any industrial lease may be executed by the district upon such terms and conditions and for such monetary rental or other considerations as may be found to be in the best interest of the public, upon an order or resolution being spread upon the minutes of the district authorizing same.

(Emphasis added.)

Section 57-7-1 is a general statute addressing disposal of surplus governmental property and reads, in part:

In the event that any municipality, county, supervisors district, municipal airport authority, regional airport authority or other governmental subdivision shall have surplus airport land or other lands which are not needed for airport purposes or for other governmental purposes, then such property so designated and described may be set aside and improved for industrial and commercial purposes and the same may thereafter be operated or the same may be leased or sold upon such terms and conditions as a municipality, county, municipal airport authority, regional airport authority or governmental subdivision shall prescribe.

It is a well settled principle of statutory construction that a specific statute controls over a general statute. The Mississippi Supreme Court has stated that “... where a special and particular statute deals with a special and particular subject its particular terms as to that special subject control over general statutes dealing with the subject generally.”

Angela Turner Ford  
December 21, 2018  
Page 3

*Benoit v. United Companies Mortgage of Mississippi, Inc.*, 504 So.2d 196, 198 (Miss. 1987).

Section 19-5-99 authorizes an economic development district (EDD) to dispose of industrial sites so long as the site will be used for industrial and/or warehouse use. Due to the section being specific to disposal of property owned by EDDs, we are of the opinion that it controls in this instance. In response to your first question, the Clay County Economic Development District may not rely on Section 57-7-1 in order to dispose of property to be used for commercial and agricultural purposes. The District may dispose of real property owned by the District if it will be used for industrial and warehouse purposes as set forth in Section 19-5-99.

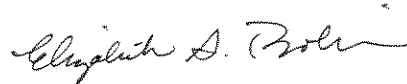
In response to your second question, this office has previously opined that state law does not authorize an EDD to donate real property to private or public entities as such a donation is in violation of Article 4, Section 66, Mississippi Constitution of 1890. Rather, the law requires that such property must be transferred for good and valuable consideration. See MS AG Ops., *Welch* (April 8, 2016); *Slade* (March 27, 1986); *Webb* (May 15, 1998); *Williams* (May 21, 2004). Accordingly, we conclude that state law does not authorize the Clay County Economic Development District to convey real property owned by the District to Clay County in the absence of good and valuable consideration.

Please let us know if this office can be of further assistance.

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:



Elizabeth S. Bolin  
Special Assistant Attorney General