

STATE OF MISSISSIPPI



JIM HOOD  
ATTORNEY GENERAL

OPINIONS  
DIVISION

August 2, 2019

Fritzie T. Ross, Esq.  
Attorney, City of Drew  
Post Office Box 244  
Greenville, Mississippi 38702-0244

Re: Limiting Use of City-owned Facilities

Dear Ms. Ross:

OFFICIAL OPINION  
Attorney General Jim Hood has received your request for an opinion and has assigned it to me for research and response.

**Issues Presented**

You inquire as to whether a municipality may adopt a policy which limits the number of days per year a nonprofit organization may use municipally-owned facilities. Specifically, you provide the following:

I am writing you in my capacity as the Attorney for the City of Drew, Mississippi. At the request of the mayor and board, I am writing to seek an official opinion from your office regarding whether the city may adopt a uniform policy whereby it would limit the number of days per year it would allow non-profit organizations from using municipally-owned facilities.

The City of Drew owns a facility building which is made available on a rental basis throughout the year via a first come first served basis implemented via a calendar kept at City Hall by the city clerk. A non-profit organization has requested to use the facility for more than one day. The mayor and board of aldermen wish to know if they can adopt a uniform

Fritzie T. Ross, Esq.  
August 2, 2019  
Page 2

policy which would limit the number of days per year it would allow the facility to be rented by non-profit organizations as it is foreseeable that an organization, other than a non-profit, could desire to rent the building thus depriving the city of acquiring rental fees.

### Response

The municipality may adopt a policy addressing the use of municipally-owned property by groups or individuals that includes a limitation on the number of days that an entity may use/rent such property in an effort to avoid exclusive use by one entity.

### Applicable Law and Discussion

We have consistently opined that a municipality may enact a policy for the use of municipally-owned property by private individuals or groups provided that it is a policy applied uniformly and consistently to all groups or individuals. MS AG Op., Watson (April 17, 2009); MS AG Op., Woodard (June 20, 2008); MS AG Op., Baum (February 17, 2006); MS AG Op., Clyde (October 24, 1988). As to the exclusive use of municipally-owned property by a private entity/individual, we opined that a municipality:

must consider the equal application of the policy to such organizations or individuals wishing to access the building. MS AG Op., Gamble (February 6, 2004). A governing authority may not permit one entity exclusive rights to use a facility to the extent that other similar groups are denied equal access to the facility. MS AG Op., Griffith (April 8, 1992).

Thus, in our opinion, any policy addressing the use of municipally-owned property by groups or individuals may include a limitation on the number of days that an entity may use/rent such property in an effort to avoid exclusive use by one entity.

If our office may be of further assistance, please advise.

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:



Leigh Triche Janous  
Special Assistant Attorney General