

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
PO BOX 20207
NASHVILLE, TENNESSEE 37202

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Opinion No. 08-03

Authority of Development District Board

QUESTION

Is a development district board created under Tenn. Code Ann. §§ 13-14-101, *et seq.*, authorized to construct a building for its own use?

OPINION

No.

ANALYSIS

This opinion concerns the authority of a development district organized under Tenn. Code Ann. §§ 13-14-101, *et seq.*, to construct a building for its own use. Development districts are formed by the Tennessee Department of Economic and Community Development in cooperation with counties, municipalities, and local development agencies within regions designated by the Department as part of its general plan for state development. Tenn. Code Ann. § 13-14-102. No administrative agency may exercise control over matters the legislature has not delegated to it, and actions beyond the authority of the agency have no force or effect. *Faust v. Metropolitan Government of Nashville*, 206 S.W.3d 475, 498 (Tenn. Ct. App. 2006), *p.t.a. denied* (2006). Administrative agencies have only such power as is granted them by statute, and any action that is not authorized by the statutes is a nullity. *Methodist HealthCare-Jackson Hospital v. Jackson-Madison County General Hospital District*, 129 S.W.3d 57, 69 (Tenn. Ct. App. 2003), *p.t.a. denied* (2003). Tenn. Code Ann. § 13-14-103(a) provides in relevant part:

It is the further intent of this chapter that the planning function of government be separated from the plan implementation function, *leaving to existing county, municipal and state governments and their instrumentalities the carrying out of all plans for physical, economic and resource development*, as provided for under existing laws. However, it is the intent of the general assembly that development districts may perform the implementation function with respect to the public guardianship program created by title 34, chapter 7.

(Emphasis added).

The powers of a development district are set forth at Tenn. Code Ann. § 13-14-106. These powers do not expressly include the power to construct a building for the district's own use, nor does this activity fall within "other authority as deemed necessary to further and promote the orderly and economic development of the state" under subsection (a)(12).

Tenn. Code Ann. § 13-14-107 provides in relevant part:

The following limitations, in addition to any other limitations specifically provided herein, shall apply to boards created under the provisions of this chapter:

* * * *

(6) No authority is hereby granted for the exercise of the power of eminent domain, *nor for engaging in construction projects.*

(Emphasis added).

In light of all these statutes, a development district created under Tenn. Code Ann. §§ 13-14-101, *et seq.*, is not authorized to construct a building for its own use.

ROBERT E. COOPER, JR.
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

ANN LOUISE VIX
Senior Counsel

Requested by:

Honorable Curt Cobb
State Representative
34 Legislative Plaza
Nashville, TN 37243-0162