STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL

April 12, 2018

Opinion No. 18-19

East Tennessee Agribusiness Marketing Authority

Question 1

Does the East Tennessee Regional Agribusiness Marketing Authority ("ETRAMA") have statutory authority under Tenn. Code Ann. §§ 64-10-101 through 64-10-124 to develop ETRAMA property for use other than the agribusiness or wastewater systems sectors?

Opinion 1

No. ETRAMA has the authority to develop property only if the development is necessary or appropriate for carrying out at least one of ETRAMA's statutory purposes—i.e., (1) the operation and development of wastewater treatment systems, or (2) the development and maintenance of a market for agricultural products—and if the development is not otherwise prohibited to it by law.

Question 2

If the answer to Question 1 is in the affirmative, does ETRAMA have the authority to enter into long term leases or lease-to-purchase contracts with businesses that wish to locate on the ETRAMA campus?

Opinion 2

See Opinion 1.

ANALYSIS

According to the request for this opinion, ETRAMA owns 76 acres at the intersection of Interstate 81 and US Hwy 25-E. The property, which currently has two tenants, has several graded sites that would be excellent locations for new businesses and industries that would create jobs for citizens of the region. The question is whether ETRAMA has the statutory authority to develop this property for use in other than the agribusiness or wastewater treatment sectors.

ETRAMA, which was established "to further the economy and growth of the agricultural industry of the [East Tennessee] region," Tenn. Code Ann. § 64-10-101(b), is governed by Tenn. Code Ann. §§ 64-10-101 through 64-10-124. None of these statutory provisions explicitly addresses ETRAMA's authority to develop its property for non-wastewater or non-agribusiness purposes. But the ETRAMA board does have discretion generally to "do all other things that are

necessary or appropriate for carrying out the purposes of this part that are not prohibited to it by law or this part." Tenn. Code Ann. § 64-10-106(d).

Those "purposes" are to:

> (1) [e]stablish and operate a market for agricultural products of the region through a food distribution center, to provide farmers of the region with a ready market for agricultural products and to provide the citizens of the region and other buyers a convenient place to purchase these products; and
>
> (2) [f]urther the economy and growth of the region served by [ETRAMA] by planning, acquiring, constructing, improving, extending, furnishing, equipping, financing, owning, operating and maintaining a system or systems within the region served by [ETRAMA] as provided in this part.

Tenn. Code Ann. § 64-10-101(c)(1)-(2).

Thus, when the development of ETRAMA property is necessary or appropriate for carrying out at least one of the two purposes as specified in § 64-10-101(c)(1)-(2), and is not otherwise prohibited by law, the development could be within the scope of ETRAMA's statutory authority. Of course, whether any given development is in fact within the scope of that authority—i.e., comports with the specified "purposes"—will depend on the totality of the facts and circumstances of each particular case.

Here, however, the question posed specifically states that the proposed development or use of the property will be for some purpose "other than the agribusiness or wastewater systems sectors." (Emphasis added.) Since "agribusiness" and "wastewater systems" are the only two statutorily authorized purposes, use or development of property for some "other" purpose or "other" sector would exceed the statutory authority of ETRAMA and its board.

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