



2018-008

**STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL**

STEVEN T. MARSHALL
ATTORNEY GENERAL

501 WASHINGTON AVENUE
P.O. BOX 300152
MONTGOMERY, AL 36130-0152
(334) 242-7300
WWW.AGO.ALABAMA.GOV

November 21, 2017

Honorable Jefferson S. Dunn
Commissioner, Department of Corrections
301 South Ripley Street
Post Office Box 301501
Montgomery, Alabama 36130-1501

Corrections Department – State
Departments and Agencies –
Alabama Memorial Preservation Act
of 2017 – Buildings – Historical
Activities or Preservation

The Department of Corrections
("DOC") can rename the Decatur
Community Based Facility and
Community Work Center because it
is not a memorial building as defined
by the Alabama Memorial
Preservation Act of 2017.

Absent the passage of new
legislation, DOC cannot rename the
Frank Lee Youth Center because it is
a memorial building not eligible for
a waiver because it is over 40 years
old.

Dear Commissioner Dunn:

This opinion of the Attorney General is issued in response to your
request.

QUESTION

Does the Alabama Memorial Preservation Act of 2017 apply to proposals by the Alabama Department of Corrections to rename the Decatur Community Based Facility and Community Work Center and the Frank Lee Youth Center?

FACTS AND ANALYSIS

According to your request, the Alabama Department of Corrections is considering renaming two correctional facilities. The first facility, opened in 1981, is named the Decatur Community Based Facility and Community Work Center. DOC proposes changing the name to the North Alabama Community Based Facility and Community Work Center. The second facility, built in 1964, is named the Frank Lee Youth Center. DOC proposes changing the name to the Frank Lee Community Based Facility and Community Work Center.

On May 24, 2017, the Governor signed the Alabama Memorial Preservation Act of 2017 into law, which is codified at section 41-9-230, *et seq.*, of the Code of Alabama. ALA. CODE §§ 41-9-230 to 41-9-237 (Westlaw 2017). Section 41-9-232(a) provides that “[n]o architecturally significant building, **memorial building**, memorial street, or monument **which is located on public property and has been so situated for 40 or more years may be relocated, removed, altered, renamed, or otherwise disturbed.**” ALA. CODE § 41-9-232(a) (Westlaw 2017) (emphasis added). Section 41-9-236 lists several exemptions from the act’s requirements, none of which are specifically applicable to DOC. ALA. CODE § 41-9-236 (Westlaw 2017).

A “memorial building” is defined as follows:

A building, structure, park, or other institution, other than a Memorial School, that is located on public property and has been erected for, or named or dedicated in honor of, an event, a person, a group, a movement, or military service.

ALA. CODE § 41-9-231(3) (Westlaw 2017) (emphasis added).

You represent that the Decatur Community Based Facility and Community Work Center is named after the City of Decatur, and not in honor of Stephen Decatur for whom the city was named. Because that facility is not named after, or dedicated in honor of, "an event, a person, a group, a movement, or military service" it, therefore, is not a "memorial building." Thus, the Decatur Community Based Facility and Community Work Center can be renamed.

As to the Frank Lee Youth Center, although the proposed name change does not affect the name of the person honored, the prohibition on a building being "renamed" is not qualified. The Legislature could have stated "renamed *except for that part of the name not including the honored person's name.*" It did not.

The act does provide an exception for memorial buildings that are between 20 and 40 years old. Section 41-9-232(b) states that such memorial buildings cannot be "relocated, removed, altered, renamed, or otherwise disturbed except as provided in Section 41-9-235." ALA. CODE § 41-9-232(b) (Westlaw 2017). Section 41-9-234(a) created the Committee on Alabama Monument Protection ("Committee"). ALA. CODE § 41-9-234(a) (Westlaw 2017). An entity with control of public property on which a memorial building is located may apply for a waiver from the Committee through an application that contains, at a minimum, the following information:

- a. A resolution by the controlling entity seeking a waiver for the . . . renaming [of the] memorial building . . . and the reasons therefore.
- b. Written documentation of the origin of the . . . memorial building, the intent of the sponsoring entity at the time of dedication, and any subsequent alteration, renaming, or other disturbance of the . . . memorial building.
- c. Written commentary from any heritage, historical, genealogical, or preservation organizations with interest in the decision of the controlling entity, and from the general public.
- d. A written statement of facts that were not known at the time of the origin of the . . .

memorial building, but are known now, that the committee should consider in granting the waiver. The absence of such facts should serve as a presumption against the granting of a waiver by the committee.

ALA. CODE § 41-9-235(a)(1)(a)-(d) (Westlaw 2017). The Committee may place reasonable conditions and instructions on any waiver given, and an application for waiver not ruled on within 90 days is deemed granted. ALA. CODE § 41-9-235(2)(a) & (c) (Westlaw 2017). Because the name of the Frank Lee Youth Center has been in place for more than 40 years, DOC cannot avail itself of the waiver process to rename the memorial building.

CONCLUSION

DOC can rename the Decatur Community Based Facility and Community Work Center because it is not a memorial building as defined by the Alabama Memorial Preservation Act of 2017.

Absent the passage of new legislation, DOC cannot rename the Frank Lee Youth Center because it is a memorial building not eligible for a waiver because it is over 40 years old.

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

Sincerely,

STEVE MARSHALL
Attorney General
By:

A handwritten signature in black ink, appearing to read "G. Ward Beeson, III". The signature is fluid and cursive, with the last name "Beeson" being more prominent.

G. WARD BEESON, III
Chief, Opinions Section