



HENRY McMASTER
ATTORNEY GENERAL

July 7, 2009

The Honorable Harold Mitchell, Jr.
Member, House of Representatives
District No. 31 - Spartanburg County
P.O. Box 3046
Spartanburg, South Carolina 29304-3046

Dear Representative Mitchell:

We received your letter requesting an opinion of this Office concerning the status of the Housing Authority of the City of Spartanburg, S.C. ("the Authority") as a public body. We understand from your letter that the Authority is "making application with the U.S. Department of Housing and Urban Development for Neighborhood Stabilization funds, 'NSP2.'" You requested our opinion regarding the status of the Authority as a public body existing pursuant to the laws of the State of South Carolina.

Law/Analysis

The Authority was constituted pursuant to a resolution of the City Council of the City of Spartanburg on April 20, 1938 ("the City Resolution"). Section 4 of the City Resolution states, "The organization of a Housing authority in the City of Spartanburg, South Carolina is declared to be a corporate and public purpose."

The City Resolution references its adoption "in pursuance of the 'Housing Authorities Law' as amended of the State of South Carolina." Resolution of the City Council of the City of Spartanburg, S.C., April 20, 1938. At the time the City Resolution was enacted, Section 2 of the Housing Authorities Law, Act No. 783, Acts of the General Assembly of the State of South Carolina, 1934, provided as follows:

Section 2. Declaration of Public Interest.— It is hereby declared as a matter of legislative determination that in order to promote and protect the health, safety, morals and welfare of the public, it is necessary in the public interest to provide for the creation of public corporate bodies to be known as housing authorities, and to confer upon and vest in said housing authorities all powers necessary or appropriate in order that they may engage in low-cost housing and slum clearance projects; and that the powers herein conferred upon the housing authorities including the power to acquire property to remove unsanitary or substandard conditions, to construct and

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operate housing accommodations and to borrow, expend, lend and repay moneys for the purposes herein set forth, are public objects essential to the public interest.

1934 S.C. Acts 1368, 1370.

Act No. 783 of 1934 was the predecessor of the current South Carolina Housing Authorities Law, found in the South Carolina Code of Laws, 1976, Title 31, Chapters 3 and 11. (S.C. Code Ann. Section 31-3-10 et seq.) Section 31-3-310 provides that "[i]n each city of the State there may be created in the manner herein prescribed a public body corporate and politic to be known as the 'Housing Authority of _____.'" S.C. Code of Laws, 1976, as amended, Section 31-3-310.

In prior opinions of this Office, we have addressed the legal status of public housing authorities in the State of South Carolina. In an opinion dated March 24, 1970, citing S.C. Code Sections 36-2, 36-111 and 36-138, Code of Laws of South Carolina, 1962, we concluded that "public housing authorities are declared and found to be public bodies politic and corporate and political subdivisions of the state, whose properties are exempted from payment of all taxes and special assessments of the City, the County, the State or any political subdivision thereof." Op. S.C. Atty. Gen., March 24, 1970. In another opinion concerning the legal status of the Housing Authority of the City of Lancaster, we concluded that it was "a political subdivision of the State and an 'employer' within the meaning of Code Section 61-1 (5) [Code of Laws of South Carolina, 1962]." Op. S.C. Atty. Gen., August 13, 1975.

Conclusion

Consistent with our prior opinions, and based on the authority cited above, it is the opinion of this Office that the Housing Authority of the City of Spartanburg, S.C., is a public corporate body and a political subdivision of the State.

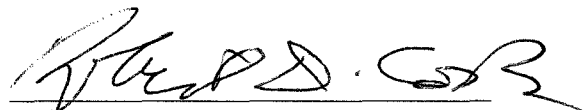
Yours very truly,

Henry McMaster
Attorney General



By: Elizabeth H. Smith
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General