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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

May 22, 2001

Mr. Joseph Dawson, III, Esq.
Deputy County Attorney
2 Courthouse Square, Room 401
Charleston, South Carolina 29401

Re: Informal Opinion

Dear Mr. Dawson:

By your letter of May 9, 2001, you have asked "whether simultaneous membership on the Charleston County Board of Zoning Appeals and employment as the Planning Director for the Town of Hollywood, South Carolina, violates § 6-29-780(B) of the South Carolina Local Government Comprehensive Planning Act of 1994."

A discussion of your question requires the employment of a few basic principles of statutory construction. The primary goal of statutory interpretation is to ascertain the intent of the General Assembly. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Moreover, the statute's words must be given their plain and ordinary meaning without resort to a forced or subtle construction which would work to limit or to expand the statute's operation. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991).

As stated in your letter, the Charleston County Board of Zoning Appeals ("BZA") was created pursuant to S.C. Code Ann. §§ 6-29-780, 790 and 800. Section 6-29-780 describes the composition of the BZA and imposes the following restriction on board members: "[n]one of the members shall hold any other public office or position in the municipality or county." Language virtually identical to this also appeared in § 6-7-740, the predecessor to § 6-29-780. In an Attorney General's Opinion dated April 16, 1991 (enclosed), this Office addressed whether the prohibition on holding any other public office or position would preclude an employee of the Horry County Register of Mesne Conveyances from serving on the Horry County Zoning Board of Adjustments. Applying

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the restriction's terms in accordance with their plain and ordinary meanings, this Office concluded: "[i]n our view, *the General Assembly must have intended to disqualify* two different categories of individuals from service on zoning boards of appeals or adjustments: *county or municipal officers and employees.*" (Emphasis added.) As we have previously discussed, this Office does not withdraw or overrule a prior opinion unless it is clearly erroneous or unless intervening circumstances warrant such. Since the General Assembly included the "no public office or position" restriction in the South Carolina Local Government Comprehensive Planning Act of 1994, I am unable to conclude that the opinion of April 16, 1991 was clearly erroneous. Accordingly, it is my opinion that pursuant to S.C. Code Ann. § 6-29-780(B), the Planning Director for the Town of Hollywood is disqualified from simultaneously serving on the Charleston County Board of Zoning Appeals.

I trust this information is responsive to your inquiry and that you will not hesitate to contact me if I can be of additional assistance. This letter is an informal opinion only. It has been written by a designated Deputy Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I am

Sincerely yours,



Zeb C. Williams, III
Deputy Attorney General

ZCW/an
Enclosure