



The State of South Carolina  
**OFFICE OF THE ATTORNEY GENERAL**

CHARLES M. CONDON  
ATTORNEY GENERAL

August 16, 1999

Warren E. Coker, Chairman  
Florence County Fire Board  
401 E. Glendale Drive  
Florence, South Carolina 29506-8604

**RE: Informal Opinion**

Dear Mr. Coker:

Your opinion request has been forwarded to me for reply. You have asked the following question: "Can the Florence County Fire Board have real estate property titled in their name or should property be titled in the individual fire department's name?"

To answer your question, attention must be focused on the Fire District's enabling legislation. The Fire District was created by Act No. 1817 of 1972. The legislation establishes a board to govern the district and sets forth the board's powers. The powers of the Fire Board are found in Section 3 of the Act and include the following:

- (a) To buy such fire-fighting equipment as the board deems necessary for the purpose of controlling fires within the district.
- (b) To select additional sites or places within the area where the fire-fighting equipment shall be kept.
- ...
- (g) To construct, if necessary, buildings to house the equipment authorized herein.
- ...

Mr. Coker  
Page 2  
August 16, 1999

As you can see, the enabling legislation does not expressly grant the Fire Board the power to have real estate titled in its name, *i.e.*, own the property. However, it may be argued that this power is implied from the powers found in the Act. See Flowe & Sons, Inc. v. Christopher Const. Co., 326 SC 17, 482 S.E.2d 558 (1997)(citing S.C.Const. art. VIII, § 17); Op. Atty. Gen. dated March 10, 1986 (discussing implied powers). One commentator has concluded that the power to erect a courthouse or jail, or both, necessarily embraces the power to purchase lands on which to erect them. McQuillin, Municipal Corporations, § 28.02 (3<sup>rd</sup> ed. revised). Similarly, the Fire District is granted the power to construct buildings to house the equipment authorized in the act. If a court were to address this issue, it may very well conclude that the Fire Board's power to construct buildings to house equipment necessarily embraces the power to purchase and own the lands on which the to erect them.

I must caution that I have been unable to locate any South Carolina cases or prior Attorney General opinions on your question. Therefore, I cannot state with certainty that the power to have real estate titled in the Fire District's name is implied from the powers granted to the Fire District. That being the case, you may want to seek a declaratory judgment to resolve this issue with finality.

This letter is an informal opinion only. It has been written by a designated assistant attorney general and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With best personal regards, I am

Sincerely yours,



Paul M. Koch  
Assistant Attorney General