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The State of South Carolina



Answer to 88-5  
P184

Office of the Attorney General

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August 29, 1988

Edgar Dyer, Esquire  
Attorney, Town of Briarcliffe Acres  
118 Citadel Drive  
Conway, South Carolina 29526

Dear Mr. Dyer:

By your letter of July 25, 1988, you have advised that the Town of Briarcliffe Acres wishes to put a Town Hall on a lot that is currently zoned residential. You had found authority in 101A C.J.S. Zoning and Land Planning §57 which basically concluded that a municipality could use property, zoned for residential use, for governmental purposes such as housing governmental vehicles or building governmental facilities thereon.

I concur with your conclusion that there is no statutory authorization or prohibition within the Code of Laws of South Carolina (1976). The statute closest to your question is Section 6-7-830 of the Code (1987 Cum. Supp.), but because the Town contemplates using property located within its own boundaries, Section 6-7-830 is inapplicable.

The general rule which is dispositive of your question is succinctly stated in 101A C.J.S. Zoning and Land Planning §108:

A governmental body such as a county or municipality may be subject to the operation of zoning regulations in its use of property, at least where such use is in a proprietary capacity. ...

However, a state, county, municipality, or other government body using property for governmental purposes ordinarily is not subject to zoning regulations where there is no legislative enactment to the contrary. The rule applies to prevent the application

Edgar Dyer, Esquire  
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With kindest regards, I am

Sincerely,

*Patricia D. Petway*  
Patricia D. Petway  
Assistant Attorney General

PDP:sds

REVIEWED AND APPROVED BY:

*Robert D. Cook*  
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