

The State of South Carolina



Office of the Attorney General

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February 20, 1986

The Honorable Thomas E. Huff
Member, House of Representatives
310-B Blatt Building
Columbia, South Carolina 29211

Dear Representative Huff:

You have asked the opinion of this Office on whether Section 4-9-120, Code of Laws of South Carolina (1976), requires three favorable readings of a proposed ordinance prior to its adoption. That Code section provides in pertinent part:

The [county] council shall take legislative action by ordinance which may be introduced by any member. With the exception of emergency ordinances, all ordinances shall be read at three public meetings of council on three separate days with an interval of not less than seven days between the second and third readings. ...
[Emphasis added.]

Based on the authority cited in opinions of this Office dated May 22, 1984 and August 6, 1984, copies of which are enclosed herewith, concerning favorable readings required for enactments of the General Assembly and municipal governing bodies, respectively, we would advise that three favorable readings would be required for an ordinance to be adopted. In other words, a proposed ordinance must receive an affirmative vote on first reading to be brought up for second reading; similarly, to move from second to third reading, another favorable vote must be had. We are advised that, at least in the larger counties, this is the procedure followed in adoption of ordinances.

As we have pointed out in the two previous opinions, authority on this particular issue is scarce and thus our

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response cannot be completely free from doubt. Legislative clarification as to Sections 4-9-120 and 5-7-270 might therefore be helpful.

We understand that an ordinance relative to procedural matters and citizen input may be pending before Aiken County Council. We have not examined any such proposed ordinance and do not intend to comment herein upon any such ordinance.

With kindest regards, I am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP:hcs

Enclosures

REVIEWED AND APPROVED BY:

Robert D. Cook

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Executive Assistant for Opinions

Mr. Levy
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the Housing Authority "buys" the closed loan from the lending institution.

An instance could arise whereby a commissioner of the Housing Authority would, as a contractor or materialman, provide contracting services or building materials for a single family dwelling which would ultimately be financed by Housing Authority funds as described above. Similarly, a commissioner may own real estate and develop that property or sell it to a developer, who would construct single family dwellings thereon, which dwellings would then be financed as described above. Further, we are advised that blocks of funds are reserved from bond issues for use by developers in the construction of single family dwellings. Conceivably, a commissioner who is also a real estate developer could utilize some of these funds to construct homes for purchasers who would obtain financing themselves from Housing Authority funds. Whether any of these activities would be prohibited depends upon whether there is a "project" of the Housing Authority and further whether the commissioner has any interest.

The term "project" is defined by Section 31-3-20(10) to include

all lands, buildings and improvements acquired, owned, leased, managed or operated by a housing authority and all buildings and improvements constructed, reconstructed or repaired by a housing authority, designed to provide housing accommodations or stores, offices and community facilities appurtenant thereto, whether or not acquired or constructed at one time and the term may also be applied to the planning of buildings and improvements, the acquisition of property, the demolition of existing structures, the clearing of land, the construction, reconstruction and repair of improvements and all other work in connection therewith; ... [Emphasis added.]

While it is possible to speculate about a wide range of factual situations, some of which may conceivably affect an interest of a commissioner or the Housing Authority, the definition of "project" does not in a literal sense appear to address a dwelling built under the Single Family Program under at least the first two scenarios of your letter; the third situation is more troublesome.