

The State of South Carolina



Office of the Attorney General

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September 24, 1986

Honorable Curtis B. Inabinett, Mayor
Betty L. Gainey, Clerk of Council
Town of Ravenel
c/o Bruce A. Berlinsky, Esquire
Attorney at Law
174 East Bay Street
Charleston, South Carolina 29402

Dear Mayor Inabinett and Ms. Gainey:

By resolution dated July 29, 1986, the Town Council of the Town of Ravenel requested an opinion from this office on the question of "whether or not a municipality can annex a river or creek where no property on either side of the creek is within the Municipality's boundaries, but where the property at the mouths of the river are within the municipality's boundaries." The facts supplied to this office show that the Town of Hollywood has enacted precisely such an annexation.

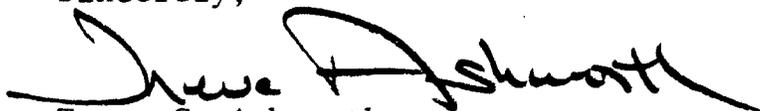
The materials supplied to this office show that the Town of Ravenel lies north of the Town of Hollywood. The two towns are separated by Wallace Creek, which runs west to east directly along Ravenel's southern boundary, and by an area of land not yet annexed by either town which lies directly south of Wallace Creek and directly north of Hollywood. The town of Hollywood lies in a "U" shape around this unannexed land, so that it is contiguous with Wallace Creek only along the western and eastern portions of its northern border, (the upper parts of the "U"). The unannexed land lies between Hollywood and Wallace Creek in the center part of the "U". Additionally, the Town of Hollywood has annexed Wallace Creek so that its municipal boundaries now completely encircle the unannexed land.

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The opinion request that you submitted to this office effectively asks this office to judge the validity of Hollywood's annexation of Wallace Creek. Because the annexation of Wallace Creek by Hollywood has already been accomplished, an opinion as to the validity of that annexation would be purely declaratory rather than advisory. This office therefore cannot issue an opinion as to the validity of the annexation of Wallace Creek by the Town of Hollywood, as only a court of competent jurisdiction in an action properly before that court would be able to rule on the propriety of this annexation.

Until we received the opinion request from the Town Council we did not realize the exact nature of your question. In that we will be unable to issue you an opinion on this question, we regret that it was necessary for you to supply us with so much information concerning this request.

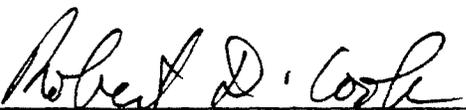
Sincerely,



Treva G. Ashworth
Senior Assistant Attorney General

TGA/ss

Reviewed and Approved By



Robert D. Cook
Executive Assistant For Opinions