

The State of South Carolina



Office of the Attorney General

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September 26, 1986

Ernest J. Nauful, Jr., Esquire
Post Office Box 2285
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Dear Mr. Nauful:

By your letter of May 28, 1986, you asked whether requirements of Act No. 515, 1971 Acts and Joint Resolutions, pertaining to approval of Lexington County Hospital's budget requisition by the Lexington County Delegation, are still valid after the advent of home rule. We advised by letter of August 27, 1986, that the act was still valid and that the Delegation would still approve the requisition.

Subsequent to our response, we became aware of Owen Industrial Products, Inc. v. Sharpe, 274 S.C. 193, 262 S.E.2d 33 (1980), a copy of which is enclosed. Certain ambiguous language within that decision appears to indicate that approval of the requisition would come from Lexington County Council rather than the Delegation. It must be noted that the language is merely dicta and was not dispositive of any particular issue before the court. This case could cause an interpretation contrary to our opinion of August 27, 1986, to be made if a court were actually faced with the questions raised in your letter of May 28, 1986.

Based upon this Supreme Court case, it is apparent that our conclusion cannot be absolutely free from doubt. We wanted to

Mr. Nauful
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make you aware of this case, and we sincerely hope that no inconvenience to you or Lexington County Hospital will result.

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/an

Enclosure

REVIEWED AND APPROVED BY:

Robert D. Cook

Robert D. Cook
Executive Assistant for Opinions