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May 12, 1987

The Honorable Herbert Kirsh  
Member, House of Representatives  
532A Blatt Building  
Columbia, South Carolina 29211

Dear Representative Kirsh:

By your letter of May 1, 1987 to Attorney General Medlock, you have requested an opinion as to the legality of a municipality's policy of requiring property owners adjacent to the municipality to agree to annex into the municipality before water or other services will be provided to the property. This Office has addressed that question recently in opinions dated December 22, 1986 and March 24, 1987, copies of which are enclosed. We have advised, in the opinion of December 22, 1986, that

the existing legal authorities indicate that a municipality has considerable discretion to enter into contracts to provide its services to persons residing outside the municipal limits. The United States Supreme Court has arguably approved such a practice, using an antitrust analysis. Such a practice may well meet the requirements of reasonableness necessary to be upheld under the Equal Protection clauses of the state and federal constitutions. Obviously however, only a court could determine with finality the validity of any specific policy.

This conclusion and the authority cited in the opinions would also be applicable to the policy of the City of Rock Hill which

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would require an annexation agreement to be entered into by adjacent property owners who wish to receive services provided by the City of Rock Hill.

With kindest regards, I am

Sincerely,

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

PDP/an

Enclosures

REVIEWED AND APPROVED BY:

*Robert D. Cook / PDP*  
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Robert D. Cook  
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