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Office of the Attorney General

State of South Carolina

February 18, 1982

*1 Mr. L. Steve Mayfield
Executive Director
South Carolina State Housing Authority
Suite 540, 221 Devine Street
Columbia, South Carolina 29205

Dear Mr. Mayfield:

You have requested an opinion from my Office as to whether or not the State Housing Authority is authorized to contract with a private housing finance corporation to provide housing finance technical assistance, mortgage servicing overview functions and other related services for a fee sufficient to cover expenses. In my opinion, the Authority is so authorized within the limits hereinafter discussed.

The legislation creating the Authority was enacted in 1971 [57 STAT. 927 (1971)] and empowered it to:

. . . have the same functions, rights, powers, duties, privileges, immunities and limitations as those provided for housing authorities created for cities, counties or groups of counties . . . § 31-13-140, CODE OF LAWS OF SOUTH CAROLINA, 1976, as amended.

With reference to the functions, rights, powers, duties, etc. of city and county housing authorities, they are empowered primarily to function in the area of low income housing. See generally, §§ 31-3-310 et seq. and 31-3-710 et seq., CODE OF LAWS OF SOUTH CAROLINA, 1976, as amended.

In 1977, legislation was enacted which permitted the Authority to provide several types of programs in order to assist in supplying housing for South Carolinians of low and 'low to moderate' income. 60 STAT. 107 (1977). The 1977 enactment contains findings that manifest that the expansion of housing services to those of 'low to moderate' income was the only intended expansion and that the Authority was not being given authority to supply housing services outside of or beyond that designated class. See, e.g., § 31-13-180(a) and (b), CODE OF LAWS OF SOUTH CAROLINA, 1976 (Cum.Supp.); Act No. 76 of 1977, SECTION 1 [60 STAT. 107 at 108-109 (1977)]. The definitions also make clear that the 1977 legislation is to be used to benefit low income and low to moderate income individuals only. § 31-13-170(b), (i), (j), (o), (p) and (r), CODE OF LAWS OF SOUTH CAROLINA, 1976 (Cum.Supp.). Indeed, the litigation which tested the constitutionality of Act No. 76 of 1977 determined that it serves a public purpose notwithstanding the fact 'that this legislation is not a panacea which completely eliminates the problem [of a shortage of safe and sanitary housing] . . .' Bauer v. South Carolina State Housing Authority, 246 S.E.2d 869 at 875 (1978) [emphasis added].

The 1977 enactment empowers the Authority to:

(1) make and execute contracts and any other instruments and agreements necessary or desirable for the performance of its functions.

* * *

(7) make and execute contracts with mortgage lenders or other financial institutions in the State for the servicing of mortgage loans made or acquired by the Authority pursuant to this chapter and to pay the reasonable value of services rendered to the Authority pursuant to these contracts.

* * *

*2 (11) require reasonable fees and charges for the rendering of its services which, unless required for purposes of the preceding, may be used by the Authority for any of its corporate purposes.

* * *

(22) Provide advice, technical assistance, and other services to public and corporate bodies, appropriate and prospective housing sponsors or persons and families of the beneficiary classes. [§ 31-13-190\(1\), \(7\), \(11\) and \(22\), CODE OF LAWS OF SOUTH CAROLINA, 1976 \(Cum.Supp.\)](#).

These powers, standing alone, would, in my opinion, be sufficient to authorize the Authority to engage in the contemplated activities with the private housing finance corporation without regard to the income level of the ultimate beneficiaries of the housing services. Nevertheless, because these enumerated powers are contained in and are part of legislation which itself is expressly limited to housing beneficiary classes of low income and low to moderate income South Carolinians, they must be construed to be limited to those beneficiary classes. That is to say, the contemplated contractual agreement is authorized so long as the private housing finance corporation uses the services supplied by the Authority only for the benefit of low income and low to moderate income individuals.

I am not unmindful of the fact that certain language in the legislation is not expressly limited to the low income and low to moderate income classes.¹ Nevertheless, one of the cardinal rules of statutory construction is that a legislative enactment must be construed as a whole, to wit:

‘ . . . A statute as a whole must receive a practical, reasonable and fair interpretation consonant with the purpose, design and policy of the lawmakers.’ [Caughman v. Columbia Y.M.C.A., 212 S.C. 337 at 341, 47 S.E.2d 788 \(1978\)](#).

See generally, WEST'S SOUTH CAROLINA DIGEST, Statutes § 205. Applying this principle here, I am of the opinion that the provisions of the 1977 legislation construed as a whole require that the functions performed by the Authority as authorized by that legislation relate to the low income and low to moderate income beneficiary classes only. Consequently, the proposed contractual agreement must be limited to the same classes.

With kind regards,

Daniel R. McLeod
Attorney General

Footnotes

¹ For example, [Section 31-13-180 of the Code](#) includes the following finding:
The General Assembly further notes that private enterprise and investment have been able to produce or provide mortgage financing for sufficient new residential housing essential to retain and attract qualified manpower resources in many areas of the State where such resources are, or shortly will be, critically needed for existing, expanding and new industrial and commercial operations and development.
See also, [§ 31-13-190, CODE OF LAWS OF SOUTH CAROLINA, 1976 \(Cum.Supp.\)](#) (prefatory paragraph).

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