

1981 WL 157940 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 27, 1981

*1 The Honorable Joe F. Anderson, Jr.
Member
House of Representatives
Post Office Box 507
Edgefield, South Carolina 29824

Dear Representative Anderson:

You have requested an opinion concerning the procedure to be followed in selling a tract of land owned by the Edgefield County Water and Sewer Authority (hereinafter the Authority). The Authority was empowered by statute to sell and convey lands or interests therein. Act No. 571, 1967 Acts and Joint Resolutions, 1074. There is no specific procedure under State law, however, for effecting such a sale. The general common law places the determination of the procedure for, and the conditions of, the sale of public lands, in the absence of a statute, within the reasonable discretion of the appropriate authority. See 10 McQuillan, MUNICIPAL CORPORATIONS, § 28.44. The sale must, however, be made generally in such a manner as would bring the most beneficial terms to the public body. Id. Although there are no specific restrictions on sale prices, a sale cannot be made for consideration that is grossly inadequate. 56 Am.Jur.2d 'Municipal Corporations, Counties, and Other Political Subdivisions,' § 552.

Thus, in answer to your specific questions, it would appear first that a public sale is not required if, in the judgment of the Authority, the most beneficial terms could be gotten by some other type of sale. Generally it would seem, however, that such terms could best be assured by a public sale. Second, the sale may be by either public auction or by sealed bids or otherwise, again based on the reasonable discretion of the Authority. Third, the public notice of the sale must be only a reasonable notice. Four, the Authority may reserve the right to reject any and all bids. This is a matter that is within the reasonable discretion of the Authority. Of course such a reservation must clearly be made in the advertisement for bids or otherwise at the outset of the sale. See 7 Am.Jur.2d, 'Auctions and Auctioneers,' § 11. That matter would be governed by general contract law.

If you have any further questions about this matter please let me know. I apologize for the delay in responding to your letter. It somehow slipped through my filing system.

Sincerely yours,

David C. Eckstrom
Assistant Attorney General

P.S. For further authority supporting this opinion see [Elliott v. McNair](#), 250 S.C. 75, 95, 156 S.E.2d 421, 431-32 (1967).

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