

1977 WL 36983 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

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Budget and Control Board
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QUESTIONS PRESENTED:

1. Are the State and the State Board for Technical and Comprehensive Education bound by the Resolutions of Palmer College and Palmer College Corporation concerning the sale of a tract of land donated to the State?
2. Should the Division of General Services deposit the proceeds of the sale of the donated property in the Sinking Fund pursuant to Sections 11-9-630 and 11-9-650, 1976 South Carolina Code of Laws (Sections 1-793 and 1-795, 1962 South Carolina Code of Laws, as amended), or return the proceeds of the sale to the State Board for Technical and Comprehensive Education?

STATUTES INVOLVED:

Sections 11-9-630 and 11-9-650, 1976 South Carolina Code of Laws.

DISCUSSION OF ISSUES:

On October 28, 1976, the Division of General Services for the State Budget and Control Board sold a parcel of land, formerly a part of the Palmer College Charleston properties, to the highest bidder. This property, known as 91 Ashley Avenue, was a portion of property transferred by deed to the State of South Carolina by Palmer College on August 8, 1973. The sale was the result of such property being declared surplus to the State TEC System and a request to the Division of General Services for disposal by the State Board for Technical and Comprehensive Education.

The proceeds of the sale, \$27,000.00, were deposited in the Division of General Services' accounts. The State Board for Technical and Comprehensive Education believes that the proceeds should be transferred to that agency pursuant to the agreements and understandings between the State Board for Technical and Comprehensive Education, Palmer College, and Palmer College Corporation prior to the deed of August 8, 1973.

The Division of General Services is uncertain, however, as to whether such monies should be paid to the Sinking Fund as provided in the 1976 South Carolina Code of Laws, Sections 11-9-630 and 11-9-650, (the 1962 South Carolina Code of Laws, Sections 1-793 and 1-795), or whether the proceeds should be transferred to the State Board for Technical and Comprehensive Education pursuant to the following history of the acquisition of such property.

In or about July of 1973 plans for the merger of the campuses of Palmer College, in Columbia and Charleston, with the State Board for Technical and Comprehensive Education were being consummated. The Palmer College Corporation and the Board

of Trustees of Palmer were going through the necessary steps to effect a transfer of the properties of those two campuses to the State, as indicated in the attached document copies.

On August 8, 1973, a meeting was held in Columbia with representatives of Palmer College Corporation, Palmer College, and the State Board for Technical and Comprehensive Education to execute the necessary documents for transfer of their campus assets and properties to the State. At such meeting several Motions were made by members of the State Board for Technical and Comprehensive Education and, as indicated in the minutes, were voted on and unanimously became Resolutions. One Resolution was that the Chairman of the State Board for Technical and Comprehensive Education accept the Palmer College properties in accordance with Resolutions of members of the Corporation and the Board of Trustees of Palmer College at their private meetings of December 28, 1972, and July 23, 1973.

*2 The minutes of the meeting of July 23, 1973, of the Palmer College representatives reflect, among other things, that the buildings and real estate of Palmer College at Charleston were to be donated to the State Board for Technical and Comprehensive Education 'for the express purpose of use for post-high school comprehensive education . . .' and that 'these properties may be sold, exchanged, or traded for other properties, for the purpose of relocating, improving or enlarging the campus in the peninsula city area . . .'.

The apparent intent of the Resolution of the State Board for Technical and Comprehensive Education on August 8 (paragraph 2 above) was to bind the State and its agencies to the Resolutions of the Palmer College representatives adopted at their meetings.

During such August 8, 1973, meeting (with TEC representatives present) who agreements dated July 1, 1973, were ratified by the State Board acknowledging the intent of the parties to transfer and accept the properties of Palmer College. In addition, a third agreement was signed August 8, 1973, reciting that the properties were to be transferred 'to the State of South Carolina for its general use and for the particular use of the State Board for Technical and Comprehensive Education . . .', which agreement was executed, as was the earlier July 1 agreements, by the Chairman of the State Board for Technical and Comprehensive Education and the Chairman of the Palmer College Board. In addition the August 8 agreement was executed by Charles E. Palmer for the Palmer College Corporation.

It is to be noted that the deed is to the State of South Carolina and no restrictions or conditions appear in the deed from Palmer College to the State.

CONCLUSION:

1. The State of South Carolina, and the State Board for Technical and Comprehensive Education, accepted the property donation pursuant to the conditions set forth in the minutes of the meeting of July 23, 1973 and the resolution adopted on August 8, 1973.
2. The property sale proceeds should be transferred by the Division of General Services to the State Board for Technical and Comprehensive Education.

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