

1977 S.C. Op. Atty. Gen. 283 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-355, 1977 WL 24694

Office of the Attorney General

State of South Carolina

Opinion No. 77-355

November 8, 1977

*1 (1) The Richland County Council has the authority to extend the filing time for the special residential classification; however, any person seeking to file after the May 1 deadline should provide satisfactory cause for not having filed on or before May 1.

(2) The Richland County Council does not have the authority to extend the filing time for the special agricultural classification.

TO: Richland County Attorney

QUESTIONS

1. Does Richland County Council have the authority to extend the filing time for the special residential classification and, if so, must each case be heard on a case-by-case basis rather than issuing a blanket extension covering all residential properties that qualify?

2. Does Richland County Council have the authority to extend the filing time for the special agricultural classification and, if so, must each case be heard on a case-by-case basis rather than issuing a blanket extension covering all residential properties that qualify?

STATUTES

Sections 12-43-220 and 4-9-35 of the 1976 Code of Laws.

DISCUSSION

In response to Question 1, it is necessary to review the provisions of Section 12-43-220(c) of the 1976 Code. Briefly, this section provides that a person's legal residence may qualify for a special assessment if an application is filed by the owner on or before May 1st of the tax year. This provision was enacted into law in 1975 as a part of Act 208 of the General Assembly. It was effective for tax years beginning in 1976. Act No. 618 of the 1976 General Assembly extended the May 1st date for filing to June 1, 1976, for the year 1976 only, and further provided that the local taxing authority may extend the time for filing upon a showing satisfactory to it that the person had reasonable cause for not filing on or before May 1st.

'Provided, however, the local taxing authority may extend the time for filing upon a showing satisfactory to it that the person had reasonable cause for not filing on or before May 1st.'

The authority to extend the time is given to the 'local taxing authority'. Section 4-9-35 of the 1976 Code of Laws provides that each county government shall have power to assess property and levy ad valorem property taxes. Further, subsection (c) of 12-43-220 of the Code provides that it shall be the duty of the governing body to provide for the assessment at which legal residences are to be taxed. The county is the taxing authority and acts through its governing body, which is the county council. The county council therefore in our opinion has authority to extend the time for making application for the residential assessment.

Further, we advise that the statutes that allow the extension require a showing of satisfactory cause for not filing on or before May 1st. Satisfactory cause must, in our opinion, be such as to justify an unprejudiced mind and must satisfy the county council. [Polley v. Boehck Equipment Co.](#), 78 N. W. 2d 737, 738, 273 Wis. 432; [Ivor B. Clark, Inc. v. Boston Road Shopping Center, Inc.](#), 207 N.Y.S. 2d 582, 588, 24 Misc.2d 84. Each person must therefore show cause for not filing within the time required by statute, however, the county may provide for a classification of circumstances that would in its opinion constitute satisfactory cause and allow for the delinquent filing. Thus the county could provide for a blanket extension for persons falling within the classification, but such should be supported by factual statements of the person seeking to file. This is in accord with the principle set forth in [Newberry Mills, Inc. v. Dawkins](#), 259 S. C. 7, 190 S. E. 2d 503, where it is said that the General Assembly has authority to provide for the classification of property for taxation provided that such classifications are reasonable and arbitrary and not discriminatory.

*2 As to Question 2, we must advise that the Richland County Council does not have the authority to extend the filing time for the special agricultural classification. In the case of residential property, specific authority provides for the extension of time, which is absent in the case of agricultural property. The inclusion of the authority to extend the time for residential property may be taken as intent that other deadlines are not to be extended. [Jones v. H. D. & J. K. Crosswell](#), 60 F.2d 827, reversing [H. D. & J. K. Crosswell v. Jones](#), 52 F.2d 880. Further, this is in accord with the principle that a county can only exercise that authority which is delegated to it by the General Assembly. [Williams v. Wylie](#), 217 S. C. 247, 60 S. E. 2d 586; [McKenzie v. City of Florence](#), 234 S. C. 428, 108 S. E. 2d 825.

CONCLUSIONS

1. The Richland County Council has the authority to extend the filing time for the special residential classification, however, any person seeking to file after the May 1st deadline should provide satisfactory cause for having not filed on or before May 1st.
2. The Richland County Council does not have the authority to extend the filing time for the special agricultural classification.

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