

1976 S.C. Op. Atty. Gen. 202 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4368, 1976 WL 22987

Office of the Attorney General

State of South Carolina

Opinion No. 4368

June 17, 1976

*1 The Honorable Norma C. Russell

Member

House of Representatives

92 Nob Hill Road

Columbia, South Carolina 29210

Dear Mrs. Russell:

On behalf of the Lexington County House Delegation, you have requested an opinion as to whether or not the governing body of Lexington County is required to provide access to county buildings used by the public for handicapped persons who must use wheelchairs to obtain such access by the installation of ramps at appropriate locations.

The statute adopted by the General Assembly in 1974 declares the policy of the State to encourage and enable persons who are physically handicapped to use and enjoy all government buildings and facilities and all public buildings and facilities.

After January 1, 1975, no government building or public building or any facility of either shall be constructed unless the building and facility is designed in compliance with the statutes and regulations adopted by the South Carolina Board for Barrier-Free Design.

After the same date, the renovation of a government building or public building must be designed in compliance with statutes and specifications so established.

Exemption from the requirements of the statute may be granted by the Board upon a showing that full compliance is impracticable or unreasonable in that it would defeat the purpose of the project proposed. Waiver must be granted by the Board for Barrier-Free Design.

Criminal penalties are provided for violation and the Board is further granted the authority to institute suit to compel compliance by injunctive means so as to enjoin the further construction of the building or to enjoin the use of the building until compliance is had.

In specific answer to your question, the county may be obligated to furnish access in accordance with the statute if it is 'charged with the construction or renovation, erecting or remodeling of any governmental or public building.' The term 'governmental building' includes and building in which physically handicapped persons may be employed or which is used by the public and which is constructed, purchased, leased or rented, in whole or in part, by use of State, county or municipal funds or the funds of any political subdivision of the State. Unless superseded by federal law or regulations, the term includes also structures used by the public which are purchased, leased or rented, in whole or in part, by the use of federal funds.

The law is not retroactive and affects only buildings and facilities designed or constructed since January 1, 1975. The Act was effective before that date.

The Barrier-Free Design Act is now codified as Section 1–491, 1962 Code of Laws, as amended.

If any further question remains in the matter, please feel free to call upon me.

Cordially,

Daniel R. McLeod
Attorney General

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