



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

July 22, 1997

Hardwick Stuart, Jr., Esquire
Newberry County Attorney
Post Office Box 394
Columbia, South Carolina 29202-0394

Re: Informal Opinion

Dear Mr. Stuart:

Attorney General Condon has forwarded your opinion request to me for reply. You have informed this Office that Newberry County is considering a proposal involving several counties for the construction and operation of a multi-county industrial park. These Counties include Newberry, Richland, Lexington, Fairfield and Kershaw. You ask for this Office's opinion regarding the legality of the operation of this multi-county industrial park in light of Section 4-1-172 of the South Carolina Code of Laws.

Section 4-1-172 states that "[a]ll multicounty industrial parks must consist of contiguous counties." In the present situation, Newberry County shares a common border with three of the other counties in the arrangement. Kershaw County shares a common border with two of the other participating counties. However, Newberry and Kershaw do not share a common border. While all the counties in the arrangement do not share a common border with every other county in the arrangement, all the counties in the arrangement do share a common border with at least one other county in the arrangement.

The term "contiguous" is defined as "in close proximity; neighboring; adjoining; near in succession; in actual close contact; touching at a point or along a boundary; bounded or traversed by." Black's Law Dictionary 320 (6th ed. 1990). Generally, an

Mr. Stuart
Page 2
July 22, 1997

actual touching of lands is required to fulfill the requirement of contiguity in a given instance. Op. Atty. Gen. dated June 6, 1989. However, in the context of extending the territorial jurisdiction of a city housing authority, this Office has opined that "the requirement of contiguity may be met if one tract of land is contiguous to the municipality and the other tracts are contiguous to that tract and to each other." Op. Atty. Gen. dated December 21, 1988.

Similarly, in the context of contiguous counties, construing the phrase "any two or more contiguous counties or municipalities," the Supreme Court of Appeals of West Virginia stated that:

... it was clearly the intention of the legislature to permit two or more counties to join in the formation of a regional airport authority if they were a compact territorial unit wherein at least one territorially bounded one other such county, but that it was not necessary that each of such counties border upon or touch all of the counties which might enter into an agreement for such purpose.

State ex rel. Farley v. Brown, 157 S.E.2d 850 (W.Va. 1967).

Finally, in an opinion dated June 6, 1989, this Office addressed the issue of contiguity of counties in the context of a regional transportation authority. This Office concluded that although each county in the regional transportation authority was not contiguous to every other county in the authority, using the test for contiguity found in the December 21, 1988 opinion and State ex rel. Farley v. Brown, *supra*, the counties of this particular regional transportation authority were contiguous. See also Op. Atty. Gen. dated August 5, 1996 (citing the June 6, 1989 opinion).

In analyzing the issue of contiguity raised in your question, the reasoning found in the June 6, 1989 opinion, the December 21, 1988 opinion and State ex rel. v. Brown, is applicable. Based on this reasoning, it is not necessary for Newberry to border upon or touch Kershaw to establish contiguity with Kershaw. What is necessary to establish contiguity is for Newberry to touch or border upon a county in the arrangement which touches or borders upon Kershaw. According to the information contained in your request, this requirement is met in the present case.

This letter is an informal opinion only. It has been written by a designated assistant attorney general and represents the position of the undersigned attorney as to the

Mr. Stuart
Page 3
July 22, 1997

specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kindest regards, I remain

Very truly yours,



Paul M. Koch
Assistant Attorney General