

7700 Liberty



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

January 12, 2004

Terry A. Finger, Esquire
Bluffton Town Attorney
Post Office Box 24005
Hilton Head Island, South Carolina 29925-4005

Dear Mr. Finger:

In a letter to this office you referenced that an annexation petition was previously presented to the Bluffton town council pursuant to the twenty-five percent elector petition/election method. Such procedure is outlined in S.C. Code Ann. Section 5-3-300 (Supp. 2002). You indicated that a motion to accept the petition was originally made by a town council member but the motion died for lack of a second and no further motions were made. Such occurred several months ago. You now indicate that the proponents of the annexation petition have indicated that they are going to present the same petition again. You question whether the same petition can be presented a second time.

Section 5-3-300 does not specifically comment on the question raised. A prior opinion of the Louisiana Attorney General dated November 29, 1983 determined that "an annexation petition that failed to reach the floor may be resubmitted." A prior opinion of this office dated November 19, 1962 determined that as to an annexation petition that did not contain sufficient signatures when originally presented,

I am of the opinion that if the sole reason for the rejection of a petition was the absence of a sufficient number of signatures and if additional signatures were secured promptly, that in such case, the same petition could be presented to the city council. I should like to emphasize that the same petition could, in my opinion, only be presented if it were presented the second time with reasonable dispatch and diligence, so that it could not be termed a stale petition....

Therefore, there is recognition for a petition being submitted more than once. Consistent with such, it is my opinion that the petition you referenced that died for lack of a second to a motion could be presented a second time.

Mr. Finger
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With kind regards, I am,

Very truly yours,

A handwritten signature in cursive script, appearing to read "Charles H. Richardson". The signature is fluid and extends to the right.

Charles H. Richardson
Senior Assistant Attorney General