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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

April 13, 2005

The Honorable Timothy L. Nanney
Register of Deeds, Greenville County
County Square
301 University Ridge, Suite 1300
Greenville, South Carolina 29601

Dear Mr. Nanney:

In a letter to this office you questioned whether particular "Sworn Affidavits", copies of which you forwarded with your letter, should be recorded in the Register of Deeds office. You further questioned whether if such documents are recordable, would they be recorded in the Deed Index under the name of the party that signed the affidavit and would they require a probate or acknowledgment.

A prior opinion of this office dated January 20, 1982 indicated that "...the process of recording is purely the creation of the statute law, and therefore [is] subject to such variety as to form, methods, etc. as to the legislative mind seems best." S.C. Code Ann. §30-5-90 (Supp. 2004) provides that

The register of deeds is required to record in the order of the times at which they may be brought to his office, all marriage settlements and all conveyances and mortgages, renunciations of dower and other writings concerning the titles to lands situate in his county which may be lodged with him to be recorded if the execution of any such writing shall be proved by affidavit of a subscribing witness, or otherwise as herein provided. (emphasis added).

I am unaware of any other statute applicable to the matter of the eligibility of these documents for recording.

Each of the documents you forwarded, which are entitled "Sworn Affidavit", simply state that the referenced property "has been used as a farm with various farm animals...and remains a farm today." A statement is also made that the affiant's personal residence has been "next to the above mentioned property" for a designated number of years. Based upon my review, none of the affidavits are relevant to the matter of the title to the land and, therefore, pursuant to Section 30-5-90 have no basis entitling them to being recorded in the Office of the Register of Deeds. Inasmuch as the

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documents are not entitled to be recorded, further review of your questions dealing with how they would be recorded and whether they would require a probate or acknowledgment appears unnecessary.

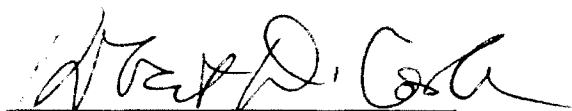
If there are any questions, please advise.

Sincerely,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General