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The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER  
ATTORNEY GENERAL

March 1, 2005

Mr. Gary Kubic  
Beaufort County Administrator  
Post Office Drawer 1228  
Beaufort, South Carolina 29901-1228

Dear Mr. Kubic:

In a letter to this office you questioned whether S.C. Code Ann. § 12-43-217(A) (2000) permits Beaufort County to conduct real property reassessments more often than once every five years. Such provision states:

Notwithstanding any other provision of law, once every fifth year each county or the State shall appraise and equalize those properties under its jurisdiction. Property valuation must be complete at the end of December of the fourth year and the county or State shall notify every taxpayer of any change in value or classification if the change is one thousand dollars or more. In the fifth year, the county or State shall implement the program and assess all property on the newly appraised values.

When interpreting the meaning of a statute, certain basic principles must be observed. The cardinal rule of statutory interpretation is to ascertain and give effect to legislative intent. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Typically, legislative intent is determined by applying the words used by the General Assembly in their usual and ordinary significance. Martin v. Nationwide Mutual Insurance Company, 256 S.C. 577, 183 S.E.2d 451 (1971). Resort to subtle or forced construction for the purpose of limiting or expanding the operation of a statute should not be undertaken. Walton v. Walton, 282 S.C. 165, 318 S.E.2d 14 (1984). Courts must apply the clear and unambiguous terms of a statute according to their literal meaning. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991). Statutes should be given a reasonable and practical construction which is consistent with the policy and purpose expressed therein. Jones v. South Carolina State Highway Department, 247 S.C. 132, 146 S.E.2d 166 (1966). As set forth by Section 12-43-217, "...once every fifth year each county or the State shall appraise and equalize those properties under its jurisdiction..."

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(emphasis added). The word "shall" typically is defined as mandatory and therefore the action referred to is mandatory. Ops. Atty. Gen. dated August 17, 2004 and October 26, 1987.

It is stated that "(g)enerally a reassessment must be levied in the manner prescribed by statute...." 64 C.J.S. Municipal Corporations § 1377. Similarly stated,

(i)n proceedings for a reassessment there must be a substantial compliance with the requirements of the statute conferring the power to levy a reassessment...The time within which reassessments may be made is sometimes fixed by statute or charter, and a compliance therewith is necessary and sufficient to give validity to the reassessment.

64 C.J.S. Municipal Corporations § 1378.

A prior opinion of this office dated February 2, 1961 dealt with the question of whether or not a county board of assessors could revalue real property within the county for tax purposes more often than once every fourth year. The opinion referenced the decision of the State Supreme Court in the case of Paris Mountain Water Company v. Woodside, County Treasurer, 133 S.C. 383, 131 S.E. 37 (1925) which construed S.C. Code Ann. § 348 (1922). That provision stated:

All persons who are required by law to make returns of personal property shall make full returns of all real estate and improvements thereon between the first day of January and the first day of March...and at the same time in every fourth year thereafter.

The Court in Paris Mountain Water Company indicated that "...under the statute – providing assessments every four years only, there could be no new assessment in 1911 and 1912, there having been an assessment in 1910." 131 S.E. at 38. The opinion of this office referenced a statutory provision that stated that

Any county upon the written approval of a majority of the county legislative delegations, including the Senator,...may provide that such statement...(of real estate)...shall be made every fourth year.

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The opinion determined that pursuant to that provision, in the situation where the county legislative delegation had made provision for returns of real property for county tax purposes every fourth year, revaluation could not be made more often than every fourth year.

Consistent with the above, in my opinion, Section 12-43-217(A) should be construed to only authorize real property reassessments every five years. Therefore, a county would not be authorized to conduct an annual reassessment of real property for ad valorem taxation purposes.

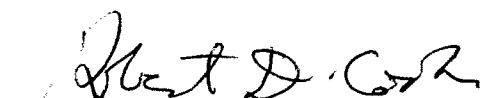
With kind regards, I am,

Very truly yours,



Charles H. Richardson  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



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Robert D. Cook  
Assistant Deputy Attorney General