



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

March 1, 2005

The Honorable Charlie Lybrand
Register Mesne Conveyance
County of Charleston
101 Meeting Street
Charleston, South Carolina 29401

Dear Mr. Lybrand:

In a letter to this office you indicated that you are experiencing difficulty with protecting historic documents that are part of your office. To remedy the problem you have asked the County Administration for \$45,000.00 to purchase high resolution imaging equipment to scan these documents but the Administration has been nonresponsive. As a result you are questioning whether you have the authority to go outside the normal budge process, using your own revenue stream, to protect these documents. You cite the provisions of your oath which include the obligation "to exercise the duties of the office to which...(you)...have been elected." You also indicated that recording documents and protecting them for posterity is your main duty and responsibility. You further cited the provisions of S.C. Code Ann. § 4-9-650 (1986) which state that

With the exception of organizational policies established by the governing body, the county administrator shall exercise no authority over any elected officials of the county whose offices were created either by the Constitution or by the general law of the State.

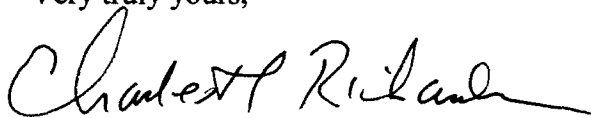
While acknowledging the requirements of your oath of office and the provisions of Section 4-9-650, it is also the requirement that county officials or county offices cannot spend money without an appropriation. Pursuant to S.C. Code Ann. § 4-9-140 (1986), a "(c)ounty council shall adopt annually and prior to the beginning of the fiscal year operating and capital budgets for the operation of county government..." As stated in an opinion of this office dated October 14, 1988, "(a)ll appropriations by a county must be reflected in its budget adopted pursuant to Section 4-9-140." Generally, public agencies are required to spend monies in accordance with appropriations act provisions. See: Op. Atty. Gen. dated February 23, 1982. As determined by opinions of this office dated January 17, 1990 and July 31, 1991, public monies cannot be spent in a manner inconsistent with county provisions restricting the use of public funds. Consistent with such, in my opinion, it would be inappropriate for you to go outside the normal appropriations process in order to spend public monies for an item for which there was no appropriation.

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Of course, pursuant to Section 4-9-140, counties are authorized to make supplemental appropriations. Therefore, it may be possible for the county to make a supplemental appropriation authorizing the purchase of the referenced equipment. I would additionally suggest that you consider contacting the South Carolina Department of Archives and History for their possible assistance in preserving the documents at issue.

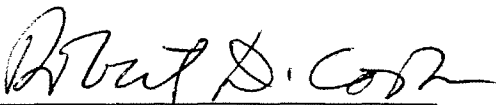
With kind regards, I am,

Very truly yours,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General