

January 28, 2008

Daniel L. Draisen, Esquire
Pendleton Town Attorney
207 East Calhoun Street
Anderson, South Carolina 29621

Dear Mr. Draisen:

In a letter to this office you questioned whether it is appropriate for the Town of Pendleton to assess property taxes against a disabled property owner in the same manner as all other citizens. You specifically asked that we consider the Civil Rights Act of 1964, the Rehabilitation Act of 1973, the United States Constitution, the South Carolina Constitution, the Code of Laws of South Carolina and the common laws of this State. You forwarded a copy of your opinion in which you stated that

In reviewing the property tax laws, I find that the laws are not discriminatory on their face. Generally, property in the Town of Pendleton is taxed the same regardless of the status of the owner. Each property is taxed an amount that is based upon the assessed value of the property. This tax is assessed on property without regard to the sex, age, race, creed, religion, sexual orientation, or disability status of the owner. The Town does provide a "homestead" exemption for the disabled which serves to reduce the tax liability of those who apply for the exemption. However, the exemption does not relieve the property owner from the obligation to pay property taxes.

Furthermore, I find that the tax laws are not discriminatory in their application. Again, each property is taxed an amount that is based upon the assessed value of the property. This tax is assessed on property without regard to the sex, age, race, creed, religion, sexual orientation or disability status of the owner. I find no authority which exists in this country that supports the premise that solely because a person is disabled, they are exempt from paying property taxes.

Based upon my review, I am in agreement with your conclusions as set forth above. At your request, I have researched case law and attorneys general opinions of this State and other states regarding the potential applicability of the Civil Rights Act of 1964, the Rehabilitation Act of 1973,

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the United States Constitution, the South Carolina Constitution, the Code of Laws of South Carolina and the common laws of this State but have been unable to find any support for the proposition that there is an absolute exemption from the payment of property taxes by disabled persons. Therefore, I am unaware of any provisions in the laws cited by you that relieve a property owner totally from the obligation to pay property taxes. The only provision that I can cite is S.C. Code Ann. § 12-37-250(A)(1) which states

The first fifty thousand dollars of the fair market value of the dwelling place of a person is exempt from county, municipal, school, and special assessment real estate property taxes when the person:...(ii) has been classified as totally and permanently disabled by a state or federal agency having the function of classifying persons....

The term “permanently and totally disabled” is defined by subsection (E) of such provision as meaning

...the inability to perform substantial gainful employment by reason of a medically determinable impairment, either physical or mental, that has lasted or is expected to last for a continuous period of twelve months or more or result in death.

Aside from this specific exemption, I am unaware of any other provisions applicable to your question.

With kind regards, I am,

Very truly yours,

Henry McMaster
Attorney General

By: Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Assistant Deputy Attorney General