ALAN WILSON
ATTORNEY GENERAL

February 22, 2013

The Honorable Daniel B. Verdin, III
Senator, District No. 9
Gressette Office Bldg., Ste. 404
Columbia, SC 29202

Dear Senator Verdin:

We received your letter requesting an opinion of this Office regarding the establishment of agricultural district programs by counties in South Carolina. You ask whether local governments have the authority to establish, through ordinance, voluntary agricultural district programs without enabling legislation. If not, you ask whether such enabling legislation would allow local jurisdictions to pursue these programs.

Law/Analysis

As we have previously observed, the autonomy and authority of local governments has increased significantly since the advent of Home Rule. See Ops. S.C. Atty. Gen., April 7, 2011 (2011 WL 1740752); August 8, 2005 (2005 WL 1983356). The relevant provisions of the South Carolina Constitution, often referred to as the Home Rule Amendments, are found in Article VIII. Specifically, §17 provides:

> [t]he provisions of this Constitution and all laws concerning local government shall be liberally construed in their favor. Powers, duties, and responsibilities granted local subdivisions by this Constitution and by law shall include those fairly implied and not prohibited by this Constitution.

The Constitution charges the Legislature with the duty of "provid[ing] by general law for the structure, organization, powers, duties, functions, and the responsibilities of counties ...." S.C. Const. art. VIII, §7. See also S.C. Const. art. VIII, §9 [similar provision applying to municipalities]. Consistent with this constitutional mandate, the Legislature enacted the Home Rule Act, S.C. Code Ann. §§4-9-10 *et seq.*, concerning counties, and §§5-7-10 *et seq.*, concerning municipalities. Counties were granted broad legislative powers through the enactment of §4-9-25, which provides that:

> [a]ll counties of the State...have authority to enact regulations, resolutions, and ordinances, not inconsistent with the Constitution and general law of this State, including the exercise of these powers in relation to health and order in counties or respecting any subject as appears to them necessary and proper for the security, general welfare, and convenience of counties or for preserving health,

> peace, order, and good government in them. The powers of a county must be liberally construed in favor of the county and the specific mention of particular powers may not be construed as limiting in any manner the general powers of the counties.

See also §5-7-30 [similar provision applying to municipalities].

The South Carolina Supreme Court recognized in Williams v. Town of Hilton Head, 311 S.C. 417, 429 S.E.2d 802, 805 (1993) that, "by enacting the Home Rule Act ... the legislature intended to abolish the application of Dillon's Rule in South Carolina and restore autonomy to local government." As the Court explained, the doctrine of Dillon's Rule provided that a municipal corporation possessed only those powers expressly granted, "those necessarily or fairly implied" from such express powers, and "those essential to the accomplishment of the declared objects and purposes of the corporation, not simply convenient, but indispensable." Id., 429 S.E.2d at 804. Considering Article VIII in conjunction with the Home Rule Act, the Court concluded that municipalities now have the authority to "enact regulations for government services deemed necessary and proper for the security, general welfare and convenience of the municipality or for preserving health, peace, order and good government, obviating the requirement for further specific statutory authorization so long as such regulations are not inconsistent with the Constitution and the general law of the state." Id., 429 S.E.2d at 805 [Emphasis added].

Although Williams did not expressly address whether Dillon's Rule has been abolished as to county governments as well, we have previously stated that "Williams would certainly be of great precedential value in arguing that Dillon's Rule has been abolished as to county governments." Ops. S.C. Atty. Gen., March 20, 2012 (2012 WL 1036301); January 19, 1995 (1995 WL 67622). Several decisions issued by the Court since Williams provide further support for such an argument. In Hospitality Assn. of S.C. Inc. v. County of Charleston, 320 S.C. 219, 464 S.E.2d 113 (1995), the Court upheld the validity of ordinances enacted by a town, city, and county that imposed fees on the proceeds of certain sales and services. In so doing, the Court found that both counties and municipalities had the authority to enact such ordinances under the "broad grant of power" afforded them under §§4-9-25 and 5-7-30, and further noted such ordinances "are valid unless inconsistent with the Constitution or general law of this State." Id., 464 S.E.2d at 118. Furthermore, the Court has since recognized that counties possess general police powers under §4-9-30 of the Home Rule Act. See Greenville County v. Kenwood Enterprises, 353 S.C. 157, 577 S.E.2d 428 (2003). Specifically, the Court concluded:

> [w]hile the Comprehensive Planning Act governs zoning, it simply does not evince a legislative intent to completely prohibit any other local enactments from touching upon zoning or land use. That fact, in conjunction with the liberal reading we are required to give section 4-9-25, compels us to conclude that this type of ordinance may be properly enacted pursuant to the County's police powers.

Id., 577 S.E.2d at 432 [Citation omitted]. As the Hospitality Assn. Court further makes clear, "[n]ew Article VIII effectively abolished Dillon's Rule ...," a rule of interpretation which had required our courts to construe the powers of local governments strictly and narrowly, by mandating a liberal construction of

the powers and duties of local government and by including all such powers which might be fairly implied "and not prohibited by the Constitution." Id., 464 S.E.2d at 177, n. 4 [quoting Art. VIII, §17].

In Glasscock v. Sumter County, 361 S.C. 483, 604 S.E.2d 718, 722 (Ct. App. 2004), the South Carolina Court of Appeals recognized the overarching purpose of Home Rule:

> [t]hat local governments should be afforded a reasonable degree of latitude in devising their own individual procurement ordinances and procedures is entirely consistent with our state's now firmly rooted constitutional principle of "home rule." By the ratification of Article VIII of our state constitution in 1973, substantial responsibility for city and county affairs devolved from the General Assembly to the individual local governments. "[I]mplicit in Article VIII is the realization that different local governments have different problems that require different solutions." [Citation omitted].

In researching your question, we are unable to find explicit authority for local governments to establish, through ordinance, voluntary agricultural district programs. We are of the opinion, however, that a liberal construction of any such ordinances, as mandated by Article VIII, §17, would support the power of local governments to do so.[1]

However, we further note that while the powers bestowed by Home Rule upon local governments are now broad, it is clear not only from the language of Art. VIII itself, but the decisions of the South Carolina Supreme Court, that neither Article VIII nor the concept of "Home Rule" bestows unlimited powers upon local governments. The Legislature, pursuant to Art. III, §1 of the Constitution, remains vested with "the legislative power of this State." The purpose behind "Home Rule," as stated above, was simply to remove the Legislature from interference in the day-to-day local affairs of local governments. Clearly, Home Rule was never intended to preclude the Legislature from legislating by way of a general law even if such general law might limit a local government's powers or forbid local governments from legislating in a specific area altogether. Art. VIII, §7 makes such reservation of power to the Legislature manifest, by thus providing:

---

[1]We further note the basic principle that a local ordinance, just like a state statute, is presumed to be valid as enacted unless or until a court declares it to be invalid. Scranton v. Willoughby, 306 S.C. 421, 412 S.E.2d 424 (1991); Casey v. Richland County Council, 282 S.C. 387, 320 S.E.2d 443 (1984). An ordinance will not be declared invalid unless it is clearly inconsistent with general state law. Only the courts, and not this Office, would possess the authority to declare such ordinance invalid. Therefore, any ordinance would have to be followed until a court sets it aside. See Op. S.C. Atty. Gen., June 12, 2009 (2009 WL 1968616). As noted in a prior opinion of this Office dated January 3, 2003 (2003 WL 164476), "... keeping in mind the presumption of validity and the high standard which must be met before an ordinance is declared invalid, while this office may comment upon constitutional problems or a potential conflict with general law, only a court may declare an ordinance void as unconstitutional, or preempted by or in conflict with a state statute. Thus, ... an ordinance may continue to be enforced unless and until set aside by a court of competent jurisdiction."

> [t]he General Assembly shall provide by general law for the structure, organization, powers, duties, functions, and the responsibilities of counties, including the power to tax different areas at different rates of taxation related to the nature and level of governmental services provided. Alternate forms of government, not to exceed five, shall be established. No laws for a specific county shall be enacted and no county shall be exempted from the general laws or laws applicable to the selected form of government. [Emphasis added].

See also Art. VIII, §9 [applying to municipalities]. As the Court in Hospitality Assn. rightly observed, "Article VIII essentially left it up to the General Assembly to decide what powers local governments were to have." Id., 464 S.E.2d at 117. Again, "the Home Rule Act, which was designed to effectuate the mandate of Article VIII, Section 7 of the South Carolina Constitution, did not transfer absolute authority over all matters of local concern to [local governments]." Roton v. Sparks, 270 S.C. 637, 244 S.E.2d 214, 216 (1978) (Gregory, J., concurring).

Accordingly, it is clear that by virtue of Art. VIII as well as §4-9-25 [counties] and §5-7-30 [municipalities], any ordinance adopted by a local government must be consistent with the general law of the State, as enacted by the Legislature. Otherwise, the ordinance is void. Denene, Inc. v. City of Charleston, 352 S.C. 208, 574 S.E.2d 196 (2002) [an ordinance which bans a business the State has made legal is unenforceable]. Moreover, Art. VIII, §14 of the Constitution mandates that a local ordinance or regulation may not "set aside" general law provisions applicable to certain specific areas such as criminal laws or the "structure and the administration of any governmental service or function, responsibility for which rests with the state government or which requires statewide uniformity." See, *e.g.*, Diamonds v. Greenville County, 325 S.C. 154, 480 S.E.2d 718 (1997) [county ordinance may not set aside general criminal laws of the State]; Hospitality Assn, supra [local ordinance invalid if it conflicts with the Constitution or general law]; Terpin v. Darlington Co. Council, 286 S.C. 112, 332 S.E.2d 771 (1985) [county fireworks ordinance conflicts with state criminal laws and is thus invalid]; Riverwoods, LLC v. County of Charleston, 349 S.C. 378, 563 S.E.2d 651 (2002); Martin v. Condon, 324 S.C. 183, 478 S.E.2d 272 (1996) [local option legislation allowing counties to set aside the general criminal laws is invalid]; Brashier v. S.C. Dept. of Transportation, 327 S.C. 179, 490 S.E.2d 8 (1997) [Article VIII, §14 "precludes the legislature from delegating to counties the responsibility for enacting legislation relating to the subjects encompassed by that section"].

Riverwoods illustrates the principle that it is the Legislature, by general law, which determines the powers of local governments. In Riverwoods, the County argued that, pursuant to Home Rule and §4-9-25, it possessed "wide discretion to decide how to apply the exemption [on property taxes of owner-occupied residences] .... However, the South Carolina Supreme Court, in concluding that the ordinance was invalid, noted that the County only possessed such power as the Enabling Act permitted. In the Court's opinion:

> [i]t is clear from a plain reading of the Enabling Act that the only real discretion which was conferred on the County was whether to adopt the ordinance. Once adopted, however, it must be consistent with the general law of the State, i.e. the enabling legislation. See Bugsy's, Inc. v. City of Myrtle Beach, [340 S.C.

> 87, 530 S.E.2d 890 (2000)] (to be valid, an ordinance must be consistent with the Constitution and general law of the State) .... As discussed above, the Ordinance is inconsistent with the Enabling Act. Consequently, the County's assertions regarding Home Rule provide it no refuge.

Riverwoods, 563 S.E.2d at 656.

The South Carolina Supreme Court has applied much the same analysis with respect to the Legislature's limitation upon the exercise of power by local governments in a particular area. It is clear that the rule to be derived therefrom is that, so long as the Legislature exercises its power to limit local governments by general law, the exercise of such legislative authority is valid and does not conflict with Home Rule. A good example is Town of Hilton Head v. Morris, 324 S.C. 30, 484 S.E.2d 104 (1997). There, local governments brought an action challenging the constitutionality of a statute requiring real estate transfer fees collected by local governments to be remitted to the State. One argument mounted by the local governments was that the statute conflicted with Art. VIII, §17 of the Home Rule Amendment. However, the Court rejected such contention, concluding as follows:

> [t]his argument is without merit. Under Home Rule, the General Assembly is charged with passing general laws regarding the powers of local government. S.C. Const. art. VIII, §7 (counties); §9 (municipalities). The authority of a local government is subject to general laws passed by the General Assembly. See S.C. Code Ann. §5-7-30 (municipalities); §4-9-30 (counties) (Supp. 1995). The General Assembly can therefore pass legislation specifically limiting the authority of local government. In this case, although §6-1-70 does not prohibit the imposition of real estate transfer fees, it prohibits local governments from retaining the revenue generated by them. This limitation on revenue-raising does not violate article VIII, §17, since the General Assembly is constitutionally empowered to determine the parameters of local government authority.

Id., 484 S.E.2d at 106-107. [Emphasis added]. The Court's ruling in Town of Hilton Head is consistent with the generally recognized principle that "... the home rule power exercised by a county cannot result in legislation which conflicts with an act of the legislature, and it cannot be exercised in any area which has been preempted by the state." See Goodell v. Humboldt County, 575 N.W.2d 486, 494 (Iowa 1998) [simply because local government regulation is permissible in an area "does not prevent the legislature from imposing uniform regulations throughout the state, should it choose to do so, nor does it prevent the state from regulating this area in such a manner to preempt local control"].

As we recognized in an opinion dated April 2, 2012 (2012 WL 1260182): "[a]fter Home Rule, while the Legislature now cannot legislate as to a specific [county or municipality], it certainly retains virtually plenary power to limit [counties' or municipalities'] power and authority by general law." Accordingly, Home Rule does not prevent the Legislature from exercising its broad constitutional power to preempt local governments' power to regulate altogether in a given area. Of course, preemption is often thought of as "the principle (derived from the Supremacy Clause) that a federal law can supersede or

supplant any inconsistent state law or regulation." Horizon Homes of Davenport v. Nunn, 684 N.W.2d 221, 228 (Iowa 2004). However, preemption by the State of local government regulation can occur just as well, and in that context, "[p]reemption takes a topic or a field in which local government might otherwise establish appropriate local laws and reserves that topic for regulation exclusively by the legislature." Phantom of Clearwater, Inc. v. Pinellas County, 894 So.2d 1011, 1018 (Fla. 2005). The South Carolina Supreme Court has set forth the requirements for such preemption in a number of decisions. In South Carolina State Ports Authority v. Jasper County, 368 S.C. 388, 629 S.E.2d 624 (2006), the Court comprehensively reviewed the law of preemption of local regulation in South Carolina. Noting that determination of whether a local ordinance is valid "is essentially a two-step process," the Court stated:

> [t]he first step is to ascertain whether the county had the power to enact the ordinance. If the State has preempted a particular area of legislation, then the ordinance is invalid. If no such power existed, the ordinance is invalid and the inquiry ends. However, if the county had the power to enact the ordinance, then the Court ascertains whether the ordinance is inconsistent with the Constitution or general law of this state. [Citations omitted].

In terms of the preemption question, the Court concluded that state law may preempt local regulation in several ways, just as is the case with federal law's preemption of state law. The Court described these various forms of preemption as follows:

> [t]o preempt an entire field, an act must make manifest a legislative intent that no other enactment may touch upon the subject in any way. Town of Hilton Head Island v. Fine Liquors, Ltd., 302 S.C. 550, 552, 397 S.E.2d 662, 663 (1990). ... We have not expressly followed the same preemption analysis in deciding whether a state law preempts a local law as we have applied in deciding whether a federal law preempts a state law or regulation. Compare Fine Liquors, Ltd., 302 S.C. at 552-53, 397 S.E.2d at 663 with State v. 192 Coin-Operated Video Game Machines, 338 S.C. 176, 186, 525 S.E.2d 872, 877 (2000) (federal law may preempt a state law as follows: (1) Congress may explicitly define the extent to which it intends to preempt state law, (2) Congress may indicate an intent to occupy an entire field of regulation, or (3) federal law may preempt state law to the extent the state law actually conflicts with the federal law, such that compliance with both is impossible or the state law hinders the accomplishment of the federal law's purpose); accord Michigan Canners Freezers Assn. v. Agricultural Marketing Bargaining, 467 U.S. 461, 469, 104 S.Ct. 2518, 2523, 81 L.Ed.2d 399 (1984). We find it appropriate to address the SCSPA's preemption arguments using the three categories previously recognized when discussing federal law preemption, any of which is a method by which the General Assembly's intent may be made manifest.

Jasper County, 629 S.E.2d at 627-28. The Court further commented that "[e]xpress preemption occurs when the General Assembly declares in express terms its intention to preclude local action in a given

area." Id. 629 S.E.2d at 628 [citing as an example Wrenn Bail Bond Service, Inc. v. City of Hahahan, 335 S.C. 26, 515 S.E.2d 521 (1999)]. Implied preemption occurs "when the state statutory scheme so thoroughly and pervasively covers the subject so as to occupy the field or when the subject mandates statewide uniformity." Id. Conflict preemption, observed the Court, "occurs when the ordinance hinders the accomplishment of the statute's purpose or when the ordinance conflicts with the statute such that compliance with both is impossible." Id.

At least two decisions of the Court have concluded that the Legislature intended expressly to preempt local regulation of specific areas. In Barnhill v. City of North Myrtle Beach, 333 S.C. 482, 511 S.E.2d 361, 363 (1999), the Court found that a state statute "manifests a clear legislative intent to preempt the entire field of regulation regarding the use of watercraft on navigable waters" when such regulation must, except under certain special circumstances, "in fact be identical to state law ...." In Wrenn Bail Bond Service, the Court held that a provision in the bail bondsman licensure law, which provided that "[no] license may be issued to a professional bondsman except as provided in this chapter," served to make it "clear from the plain language of §38-53-80 that the legislature intended to preempt the entire field of professional licensing for bail bondsmen." Id., 515 S.E.2d at 522.

Likewise, in an opinion of this Office dated February 27, 1990 (1990 WL 599227), we commented upon proposed legislation which would expressly preempt local regulation of smoking in public places. We noted that the legislation was "general in form" and contained an express preemption clause. There, we concluded:

> First: If the bill is adopted in its present form, with the proposed preemption clause, you have asked whether counties and municipalities would be barred from enacting and/or enforcing stricter ordinances, such as an outright ban on smoking in government-owned buildings within their boundaries, or ordinances to regulate smoking in the private sector. The proposed preemption clause expressly provides: "This act expressly pre-empts the regulation of smoking by all government entities and subdivisions including boards and commissions to the extent that regulation is more restrictive than state law."
>
> The preemption clause speaks for itself. With the preemption clause as proposed, the plain language of the clause would appear to preclude the adoption of an ordinance, by a county or municipality, more restrictive than state law. ....
>
> Second: Under the provisions of the State Constitution and existing statutes, you have asked whether the legislature could preempt a local government's authority to enact or enforce such stricter standards. This question was addressed in the opinion of February 8, 1990, particularly in the discussion of constitutional and statutory provisions .... Political subdivisions may not vary from the provisions of general law unless such variance is specifically authorized. In the context of your proposed bill, this would mean that the

> legislature could, if it wished, preempt further regulation in the same matter by local political subdivisions.

In addition, we note that implied field preemption occurs "when the state statutory scheme so thoroughly and pervasively covers the subject so as to occupy the field or when the subject mandates statewide uniformity." S.C. State Ports Authority v. Jasper County, 368 S.C. 388, 629 S.E.2d 624, 628 (2006). In Ports Authority, the South Carolina Supreme Court held Jasper County was not preempted from passing several enactments which allowing it to develop a public marine terminal on the Savannah River, nor was it preempted from acquiring property for such purposes through condemnation proceedings. Pursuant to the S.C. State Ports Authority's (SCSPA) Enabling Act, §§ 54-3-110 et seq., the SCSPA possessed the authority to promote, develop, construct, maintain, and operate harbors in the State, and also had the power to acquire property for such purposes through condemnation. Although Ports Authority found that the Legislature had created a "comprehensive statutory scheme regulating many aspects of port and terminal development, ownership, and maintenance in this state," the Court concluded this scheme failed to manifest the intent to preempt local enactments from touching the subject. The Legislature's intent not to occupy the entire field was indicated by: "consistent use of the permissive 'may' in describing the SCSPA's powers"; other statutory provisions allowing certain cities to develop port and terminal utilities; other statutory provisions allowing local governments to construct terminals; the SCSPA's general supervisory authority over terminals and ports, which the Court held "is a manifestation that the [Legislature] contemplated the development of terminals by other entities," and the presence of other non-SCSPA-owned terminals in the state. The Court also rejected the argument that the management of the State's ports requires statewide uniformity, again referencing the SCSPA's supervisory authority in support of its conclusion.

However, in Aakjer v. City of Myrtle Beach, 388 S.C. 129, 694 S.E.2d 213 (2010), the Court held the City was precluded from imposing a helmet and eyewear requirement for all motorcycle riders, because the need for statewide uniformity in this area is "plainly evident." Pursuant to provisions of the Uniform Traffic Act, State law only required helmets and protective eyewear for riders under the age of 21. The Court reasoned that allowing local authorities to impose requirements in addition to State law, or in conflict with each other, would create compliance problems which would "unduly limit a citizen's freedom of movement throughout the State." Id., 694 S.E.2d at 215.

In Sandlands C & D, LLC v. County of Horry, 394 S.C. 451, 716 S.E.2d 280 (20111), the Court held the County's efforts to regulate the flow of solid waste were not impliedly preempted despite the fact the South Carolina Solid Waste Policy and Management Act (SWPMA) required counties "to comply with state law, DHEC regulations, and the state solid waste management plan when submitting their own plans." The Court held that "[w]here the General Assembly specifically recognizes a local government's authority to enact local laws in the same field, the statutory scheme does not evidence legislative intent to occupy the entire field of regulation." Finding the SWPMA "expressly invites county regulation, planning, authority, and responsibility" in solid waste management, the Court concluded the Legislature did not intend to occupy the entire field. In addition, the Court noted that the compliance concerns with local regulations in Aakjer were not present in this case, instead finding that "in the solid waste field, statewide uniformity is not necessarily beneficial, given the various solid waste needs specific to each county, which differ in size, geography, and population." Id., 716 S.E.2d at 288-90.

Notwithstanding the need for statewide uniformity, the cases of Ports Authority and Sandlands indicate a field will not be preempted by State law if any provision that is part of a statewide, coordinated regulatory scheme can be construed as recognizing the authority of local governments to regulate in the field. Any such recognition is considered a manifestation of the legislative intent not to occupy a field. As seen in Aakjer, statewide uniformity is necessary in an area where the need for such is "plainly evident." Such a need may exist when local regulation in the field would create compliance problems which impose undue burdens on those seeking to comply with them. Statewide uniformity is unnecessary, however, where it is "not necessarily beneficial" to the needs of counties and municipalities.

It is most difficult to answer your question without reviewing proposed legislation for reference. As noted above, no county or municipality would be authorized to enact an ordinance which would conflict with the general law of this State. Thus, it would first need to be determined whether any legislation, if adopted, is intended to be general and thus of state-wide applicability. Bankers Trust of South Carolina v. Bruce, 275 S.C. 35, 267 S.E.2d 424 (1980) [cardinal rule of statutory construction is to determine and effectuate legislative intent if at all possible]. Such may be done without so stating that an enactment is general or intended to be preemptive, by examining the language used, applying various rules of statutory construction, considering the constitutional limitations of Article VIII, and the like. No one set of criteria could be enumerated which would apply to every legislative enactment to determine such intent. It would probably be helpful to draft a preamble or other statement of legislative findings or intent, to establish the reasons for such agricultural district programs. We are aware of no requirement that such preemption of local ordinances by a general law be specified in the general law; likewise, there is no prohibition against such inclusion. It would be within the discretion of the Legislature to include whatever matters it felt were necessary in a particular legislative enactment in this regard.

Conclusion

It is our opinion that such a local government ordinance as you have inquired about does not violate the Home Rule provisions of the South Carolina Constitution and, if enacted, would be valid under Home Rule. The powers of local governments under Home Rule should be liberally construed in their favor. Moreover, the matter may be one as to which statewide uniformity is desired, and for that reason it may be able to be addressed by the Legislature. The Legislature retains the right to enact general laws to limit the power and authority of local governments. Such power includes the preemption of local governments from regulation in a particular area, and the power to limit the parameters local government authority. If the Legislature wished to pass such legislation and specifically preempt the adoption of local ordinances, such ordinances subsequently adopted could be deemed void. Local governments are not free to adopt an ordinance which is inconsistent with or repugnant to general laws of the State. It would be within the discretion of the Legislature to include whatever matters it felt were necessary in a particular legislative enactment.

We advise, however, that local ordinances are presumed constitutional and any unconstitutionality must be proven beyond a reasonable doubt. Also, while this Office may comment upon constitutional problems or a potential conflict with general law, only a court may declare an ordinance void as unconstitutional, or preempted by or in conflict with state statutes. As a result, an ordinance must continue to be enforced unless and until set aside by a court of competent jurisdiction.

Therefore, any determination with regard to the constitutionality of a particular ordinance would be up to a court. Op. S.C. Atty. Gen., April 9, 2010 (2010 WL 1808719).

If you have any further questions, please advise.

Very truly yours,

N. Mark Rapoport
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Deputy Attorney General