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OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

April 16, 1996

The Honorable Glenn F. McConnell  
Senator, District No. 41  
311 Gressette Building  
Columbia, South Carolina 29202

Re: Informal Opinion

Dear Senator McConnell:

You have requested an opinion with respect to a "matter relating to the South Carolina Hunley Commission." You ask the following:

[i]n light of recent legislation passed by the General Assembly concerning the Hunley project, the issue presented is what role is required by the Underwater Antiquities Act for the South Carolina Institute for Anthropology and Archaeology (hereinafter SCIAA).

Law / Analysis

By virtue of Act No. 247 of 1996, the General Assembly enacted comprehensive legislation regarding the sunken submarine, H.L. Hunley. The General Assembly created the Hunley Commission to coordinate the State's effort in locating, raising, restoring and exhibiting the Hunley. The newly-enacted statute provides in pertinent part:

Section 54-7-100. A committee of nine members ('Hunley Commission') shall be appointed, three of whom must be members of the House of Representatives, to be appointed by the Speaker, three of whom must be members of the Senate to be appointed by the President Pro Tempore, and three

members to be appointed by the Governor. The committee shall make a study of the law regarding the rights of salvage of the Hunley and any claims that a person or entity may assert with regard to ownership or control of the vessel. The committee is authorized to negotiate with appropriate representatives of the United States government concerning the recovery, curation, siting and exhibition of the H. L. Hunley. ... provided further, that with respect to the Hunley project, as described herein, the applicable duties and responsibilities contained in Article 5, Chapter 7 of this title shall be vested in the Hunley Commission ... .

The committee shall make recommendations regarding the appropriate method of preservation of this historic vessel and is also authorized to direct the Attorney General on behalf of South Carolina to take appropriate steps to enforce and protect the rights of the State of South Carolina to the salvage of the Hunley and to defend the State against claims regarding this vessel. The committee shall submit a recommendation for an appropriate site in South Carolina for the permanent display and exhibition of the H. L. Hunley to the General Assembly for its review and approval. (emphasis added).

Several principles of statutory construction are operative with respect to the foregoing legislation. First and foremost, in interpreting a statute, the primary purpose is to ascertain the intent of the Legislature. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Moreover, the words of a statute must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991). Where the terms of a statute are clear, the court must apply those terms according to their literal meaning. Paschal v. State Elec. Comm., 454 S.E.2d 890 (1995). In addition, specific laws usually prevail over general laws, and later legislation typically takes precedence over earlier legislation. Lloyd v. Lloyd, 295 S.C. 55, 367 S.E.2d 153 (1988). The special statute will be considered as an exception to or qualification of the general statute and will be given effect. Wilder v. S.C. State Highway Dept., 228 S.C. 448, 90 S.E.2d 635 (1956).

It is thus clear, based upon the language of the statute and the foregoing rules of statutory interpretation, that the General Assembly created the Hunley Commission to "take the lead" in the State's effort regarding the salvage, rescue, restoration and display of the Hunley. It is the Hunley Commission which is to research the law regarding

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ownership and control of the vessel. It is the Commission which is authorized to negotiate with the United States government regarding the recovery, siting and curation of the vessel. The Commission is the single state agency mandated by the General Assembly to direct the Attorney General in the effort to protect South Carolina's interest and to report to the General Assembly as to the appropriate site for the Hunley's location. Most specifically, it is the Commission which is delegated by the Legislature to perform and carry out with respect to the Hunley all the applicable duties and responsibilities which are normally given the SCIAA pursuant to the Underwater Antiquities Act, S.C. Code Ann. Section 54-7-620 et seq.

No other state agency is mentioned in the new Act other than the Hunley Commission. A statute specifying the thing to be done in a particular mode includes the negative of any other mode. Jones v. H.D. & J. K. Crosswell, 60 F.2d 827 (4th Cir. 1932). Thus, it is evident that the Hunley Commission is in charge of and responsible for the State's efforts concerning the Hunley. With respect to the Hunley, SCIAA possesses only such authority as is assigned to it by the Hunley Commission, but it is the Hunley Commission which is the state agency legally responsible for and must take the lead with respect to the Hunley's salvage, restoration and exhibition.

This letter is an informal opinion only. It has been written by a designated Assistant Deputy Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I am

Very truly yours,



Robert D. Cook  
Assistant Deputy Attorney General

RDC/an