

05-5843  
Lebrary



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

April 22, 1996

The Honorable Richard M. Quinn, Jr.  
Member, House of Representatives  
503 Blatt Building  
Columbia, South Carolina 29211

Re: Informal Opinion

Dear Representative Quinn:

Attorney General Condon has referred your recent letter to me for reply. You seek an opinion on various issues raised by one of your constituents concerning the AT&T Building lease agreement between the State Budget and Control Board (hereinafter "Board") and Capitol Center Associates. In particular, your constituent asks whether he has the right to protest under the South Carolina Consolidated Procurement Code, S.C. Code Ann. § 11-35-10 et seq., (hereinafter "Code"), the Board's decision not to act on their "Solicitation for Purchase of Real Property" dated April 24, 1995 (hereinafter "Solicitation").

At this time, there is litigation pending before the circuit court regarding whether there is a statutorily prescribed appellate remedy involving the State's decision to enter into a lease of real property. As you know, this Office has a long-standing policy of not issuing advisory opinions on matters that are pending resolution by a court or administrative body. Because this Office must scrupulously avoid even the appearance of usurping the court's power and responsibility to decide matters before it, we must respectfully refrain from opining on a number of issues raised by your constituent which question the leasing process. Consequently, the only issue that will be addressed in this opinion is whether your constituent has a right under the Code to protest the Board's decision to not act in connection with the Solicitation.

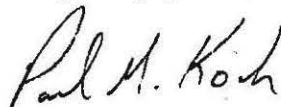
The Honorable Richard M. Quinn, Jr.  
Page 2  
April 22, 1996

In the present case, the Solicitation invited proposals for the sale of an existing building or a building that would be constructed by the bidder and then sold to the Board as real property. Your constituent submitted a proposal in which he would construct a building and, upon completion, sell the building to the Board.

The Code does not in any way govern the purchase of real property; instead, the Code governs the acquisition of goods and services by the State and its agencies. Since the Solicitation involved the sale of real property, the Code does not apply to the facts presented by your constituent. Thus, the Code does not provide a remedy to protest the Board's decision.

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

Very truly yours,



Paul M. Koch  
Assistant Attorney General

PMK/fg