



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

February 26, 1996

The Honorable Joe Wilson
Senator, Lexington County
211 Gressette Building
Columbia, South Carolina 29202

Re: Informal Opinion

Dear Senator Wilson:

You have requested the advice of this Office as to whether the consent provisions of § 59-19-250 (1976) do not apply to Lexington County School District Four because the District is "fiscally autonomous". The statute provides, in part, as follows:

The school trustees of the several districts may sell or lease school property, real or personal, in their school district whenever they deem it expedient to do so and apply the proceeds of any such sale or lease to the school fund of the district. The consent of the county board of education or, in those counties which do not have a county board of education, the governing body of the county, shall be first obtained by the trustees desiring to make any such sale or lease....(emphasis added)

An informal opinion letter from me to you dated October 30, 1995 concluded that this statute appears to apply to this district.

Act No. 280, 1979 S.C. Acts 975 provides that the "...the school tax levy shall be determined by the various school district boards of trustees ..." It does not set forth powers of the Districts over other matters. Because Act 280 is confined to tax levies, it does not indicate that it would limit the operation of the consent provisions of §59-19-250.¹

¹ The "...primary function in interpreting a statute is to ascertain the intention of the legislature...." Where the terms of a statute are clear and unambiguous, there is no room for interpretation, and we must apply them according to their literal

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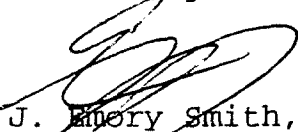
The Order that you have attached of the Honorable Walter J. Bristow, Jr., concerning the property that is in dispute concludes generally that the "manner in which the Board made this decision [to convey the school to a civic organization] does not violate State law" (Goodwin v. Lexington County School District No. Four (95-CP-32-0214, March 22, 1995); however, the Order does not refer to Act 280 nor does it expressly address the question of whether the District had to obtain the consent of the County Board of Education (County Board) under §59-19-250.² The original complaint and Motion to Dismiss in that case also do not appear to address the consent issue. I do not know whether the issue of the approval of the County Board was otherwise raised in that litigation.

In conclusion, the consent provisions of § 59-19-250 appear to apply to the Lexington School District Four. Although a possibility exists that a Court could conclude that no such consent needs to be obtained under Judge Bristow's Order, the Order does not appear to have addressed the consent provision.

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

I hope that this information is of assistance to you.

Yours very truly,



J. Emory Smith, Jr.
Assistant Deputy Attorney General

JESjr.

meaning. South Carolina Department of Highways and Public Transportation v. Dickinson, 288 S.C. 134, 341 S.E. 2d 134 (1986).

² The Order addresses other parts of § 59-19-250.