

5933 Liberty



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

July 19, 1996

The Honorable Dan L. Tripp
Member, House of Representatives
P. O. Box 454
Mauldin, South Carolina 29662

Re: Informal Opinion

Dear Representative Tripp:

You have asked whether the Patriots Point Development Authority must obtain approval from the Budget and Control Board to lease certain property (approximately 35 acres) for development of that property and whether PPDA possesses the authority to enter into such a lease.

It is my understanding that PPDA has obtained Budget and Control Board approval of the master lease in question and that PPDA plans to submit the subparcel leases to the Budget and Control Board for review. With respect to the issue of whether PPDA possesses statutory authority to enter into a lease, I am enclosing a copy of an Opinion issued by this Office, No. 94-69 (November 15, 1994) which sets forth in detail the considerable authority delegated by the General Assembly to PPDA. We noted in that opinion that the statute [Section 51-13-760] gives PPDA "very broad and general powers 'to do and perform any act or function which may tend to or be useful toward the development and improvement of Patriots Point.'" Section 51-13-760(7). Moreover, we also pointed out that PPDA "has the power 'to do any and all other acts and things authorized or required to be done by the article, whether or not included in the general powers mentioned in Sec. 51-13-770(9). Thus, we concluded from this broad authority that PPDA possessed the authority to create a nonprofit corporation.

In that same opinion, we also noted that PPDA possesses the express authority to "sue and be sued, to make contracts and to adopt and use a common seal ... and to

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acquire, lease, mortgage and dispose of personal and real property." Secs. 51-13-770(1) and (2) (emphasis added).

Based upon the foregoing, it would appear to me that the authority given by the General Assembly to PPDA to lease property is clear. This is distinguished, therefore, from a situation where an agency possesses no such statutory authority. See Op. Atty. Gen., April 4, 1996. Of course, the policy considerations or terms of any particular lease are not reviewed or commented upon herein.

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
Enclosure