

THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. _____

February 15, 1989

SUBJECT: Taxation & Revenue - Collection Of Costs For
Property Clean-Up Under Section 5-7-80.

SYLLABUS: A county is not required to collect
the clean-up cost for a lot under an
agreement with a municipality to collect
property taxes due the municipality
because the clean-up cost is not a tax.

TO: Honorable H. Spencer King
City of Spartanburg Attorney

FROM: Joe L. Allen, Jr. *JLA*
Chief Deputy Attorney General

QUESTION: The City of Spartanburg has a contract for the
collection of its property taxes by Spartanburg County. The
question is whether the cost for clean up of property,
authorized by Section 5-7-80, is a tax to be collected under
the contract.

APPLICABLE LAW: Section 5-7-80, South Carolina Code of
Laws, 1976, as amended.

DISCUSSION:

Section 5-7-80 provides authority to a municipality by
ordinance to require the owner of a lot to keep the same
"clean and free of rubbish, debris and other unhealthy and
unsightly material or conditions which constitute a public
nuisance." The statute further provides that the
municipality may recover the cost for the clean-up from the
owner when the owner fails to clean the lot. The costs
constitute a lien on the lot and "shall be collectible in
the same manner as municipal taxes."

It is first observed that the cost for the clean-up is not a
tax.

"Taxes are imposed on all property for the
maintenance of government while assessments

February 15, 1989

are placed only on the property to be benefited by the proposed improvements'. Celanese Corp. v. Strange, 272 S.C. 399, 252 S.E.2d 137 (1979)." Casey v. Richland County Council, 282 S.C. 387, 320 S.E.2d 443 (1984).

It is understood that the city and county have entered into an agreement for the county to collect the city's tax. Under such an understanding, the county is under no obligation to collect the assessment for improvements to the lot, in that the assessment is not a tax.

The phrase "in the same manner" has been held to mean:

" . . . by similar proceedings so far as such proceedings are applicable to the subject matter." (See 38 Words and Phrases, page 327, Same Manner)

It is presumed that the county's responsibility under the agreement is only to collect the property taxes due the municipality. The word "tax" would therefore not include other charges made by the city and the county under the agreement is without authority to collect the charges for cleaning the lot. If this charge is to be collected by the county it must also be by agreement between the county and the city. Here no such agreement has been reached.

CONCLUSION:

A county is not required to collect the clean-up cost for a lot under an agreement with a municipality to collect property taxes due the municipality because the clean-up cost is not a tax.

JLAJr/jws