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THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. _____

January 23, 1989

SUBJECT: Taxation and Revenue - Exemption of Publicly owned Property.

SYLLABUS: Property acquired by the Greenville County Rehabilitation Authority after the beginning of a tax year and before the tax becomes a fixed charge is exempt from property taxation if used for exclusive public purposes. The exemption is not defeated because the authority may convey the property to private parties before the end of the tax year.

TO: Honorable Debbie H. Adkins, Director
Real Property Services, County of Greenville

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

QUESTION: The Greenville County Rehabilitation Authority purchased real property on April 4, 1988 and retained ownership to June 6, 1988, at which time the real property was sold. Is the property exempt from ad valorem taxation?

APPLICABLE LAW: Section 12-37-220(A)(1), Code of Laws of South Carolina, 1976.

DISCUSSION:

Section 12-37-220(A)(1) exempts property owned by governmental entities when used exclusively for public purposes. It is assumed, for purposes of this opinion, that the property when owned by the authority was used for such public purposes. Your inquiry relates to the time of ownership and whether such precludes the exemption. The governing rule was set forth in Town of Myrtle Beach v. Holliday, 203 S.C. 25, 26 S.E.2d 12 (1943).

". . . The general rule is that exemptions of private property are strictly construed because in such cases taxation is the rule and exemption the exception but exemptions of the property of municipal corporations are liberally construed,

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for exemptions of such property is the rule and taxation the exception. . . .
." See also South Carolina Public Service Authority v. Summers, 282 S.C. 148, 318 S.E.2d 113 (1984).

In the Town of Myrtle Beach case, the court further held that when a municipality acquired the property before the tax became a fixed charge, the lien for such taxes was likewise extinguished. Here the property was acquired by the authority prior to that date. The lien for the taxes was extinguished and the property is exempt from taxation.

The question may more appropriately be stated as whether the exemption provided for governmentally owned property is lost because the property is sold to private parties during the tax year. In our view, it is not lost. Doubt as to whether the property is exempt must, as stated above, be resolved in favor of the exemption. Also the person liable for the tax for the year is generally the owner as of December 31 preceding. The exemption to the authority abated any tax to that owner and hence there is no tax due.

· CONCLUSION:

Property acquired by the Greenville County Rehabilitation Authority after the beginning of a tax year and before the tax becomes a fixed charge is exempt from property taxation if used for exclusive public purposes. The exemption is not defeated because the authority may convey the property to private parties before the end of the tax year.

JLAJr:wcg