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Office of the Attorney General

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October 11, 1988

The Honorable McKinley Washington, Jr.
Member, House of Representatives
Box 247
Ravenel, South Carolina 29470

Dear Representative Washington:

In a letter to this Office you questioned whether as a member of the State House of Representatives from Charleston would there be conflict of interest if you were to permit a house owned by you to be rented by the Sumter County Housing Authority under Section 8 of the Federal Housing Act. Section 8 is presently codified at 42 U.S.C. § 1437(f).

I am unaware of any duties you as a state legislator would have that involve decision making with regard to the referenced federal housing program. Moreover, upon review of State provisions concerning county housing authorities, Sections 31-3-710 et seq. of the Code, I am unaware of prohibitions in the housing laws against such a rental of a house owned by you, a state legislator from Charleston, who presumably would not have any control over actions by the Sumter County Housing Authority. As stated in a prior opinion of this Office dated February 20, 1986, there is a limitation upon municipal housing commissioners, and thus upon county housing commissioners, pursuant to the provisions of Section 31-3-360 which states:

(n)o commissioner or employee of an authority shall acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project....1/

1/ Pursuant to Section 31-3-730 "(t)he housing authorities of the counties shall ... have all of the functions, rights, powers, duties and liabilities ... for housing authorities in cities, and the provisions of this chapter and Chapter 11 shall, within the territorial jurisdiction of such housing authorities of the counties, apply to the housing authorities of the counties in the same manner and to the same extent as this chapter and Chapter 11 applies to the housing authorities created in cities.

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However, upon review of the definitions set forth in Section 31-3-20 of the Code, it does not appear that a state legislator from a county other than the county of the housing authority involved in a particular arrangement would be included in such prohibition. Also, because you are a legislator from a county other than Sumter, the provisions of Section 31-3-740, which authorize the legislative delegation of the county in which the housing authority is situated to perform certain functions, would not present a potential conflict of interest. Therefore, in response to the letter of Ms. Maddox to Mr. Raffield, this Office finds it would be consistent with State law for you to participate in the referenced federal housing program.

While not presenting any direct prohibition to the housing arrangement set forth above, you should be aware of the requirements of the State Ethics Act, Sections 8-13-10 et seq. of the Code which prohibit a public official from using his official position for financial gain. See: Section 8-13-410. Also, pursuant to Section 8-13-460, if a public official is faced with a situation in the discharge of his official duties which would require him to take action or make a decision which would substantially affect directly his personal financial interests or those of a member of his household or those of a business with which he is associated, the public official must comply with the disclosure provisions of Section 8-13-460. Additionally, pursuant to Section 8-13-440, a public official cannot use or disclose any confidential information gained by him in the course of or by reason of his official activities or position in a way that would result in financial gain for himself or for any other individual. Again, I do not intend to imply any violation of the Ethics Act in the proposed housing arrangement involving the Sumter County Housing Authority but am merely bringing your attention to provisions of the Act which control the actions of public officials generally.

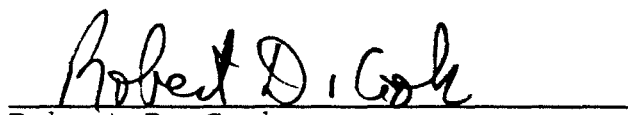
If there are any further questions, please advise.

Sincerely,


Charles H. Richardson
Assistant Attorney General

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REVIEWED AND APPROVED BY:


Robert D. Cook
Executive Assistant for Opinions