

effect, the decision of the County Board of Canvassers. (Copy of the opinion of the State Election Commission is enclosed.) On February 7, 1985, the South Carolina Supreme Court denied certiorari. Therefore, the decision of the State Board stands.

The decision of the State Board found that Mr. Kleckley was not a resident of the district on the day of the election and was, therefore, not entitled to be elected. The Order further states that a new election should be conducted at the "earliest appropriate date" but does not set a specific date for that election. The determination of the State Board of Canvassers made the election void and thereby brings the calling of a new election under the provisions of Section 7-13-1170 of the Code. See 29 C.J.S. Elections, §221.

2. Should Mr. Kleckley continue to hold over until this new election?

Yes. For the reasons set out earlier in Ms. Petway's letter to you, Mr. Kleckley would continue to hold over until his successor is elected and qualified. See in general, Bradford v. Byrnes, 221 S.C. 255 (1952); Heyward v. Long, 178 S.C. 351 (1935); 63 Am.Jur.2d Public Officers, §§156, 150; 67 C.J.S. Officers, §71.

Sincerely,



Treva G. Ashworth
Senior Assistant Attorney General

TGA/bm
Enclosure

cc: Governor Richard Riley
Mr. James B. Ellisor