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The State of South Carolina



Office of the Attorney General

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ATTORNEY GENERAL

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May 21, 1985

Ms. Helen T. Zeigler, Special Assistant
for Legal Affairs
Office of the Governor
Post Office Box 11450
Columbia, South Carolina 29211

Dear Ms. Zeigler:

You have requested the opinion of this Office as to whether Section 4-5-140, Code of Laws of South Carolina (1984 Cum. Supp.), requires that surveyors surveying a proposed change of boundaries between counties actually mark the proposed boundary line on the land. You have also asked whether the surveyors should seek authorization from a court to enter lands of property owners who have refused permission.

Section 4-5-140 of the Code provides in part that "[s]uch surveyors shall clearly mark the proposed change of line upon the land, with due regard to all legal provisions and limitations and certify plats showing such line." (Emphasis added.) This Code section was construed by an opinion of this Office dated March 6, 1980, which stated in part:

Thus, § 4-5-140 expressly requires that the proposed change of line be surveyed, located, and marked upon the land. ...

As noted above, § 4-5-140 mandates that the change of line be clearly marked upon the land.... It should be noted that a ground survey and a marking of the line would be necessary to ensure that the line is preserved should the [landmarks] be changed. [Emphasis added.]

REQUEST LETTER

Ms. Zeigler²
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Based on the Code section and the previous opinion interpreting it, we would advise that actually marking the land where boundary changes are proposed is required by the statute.

You have advised that several property owners have apparently refused to allow the surveyors to enter their lands to mark the proposed boundaries. It would be advisable to seek authorization from a court prior to entry upon those lands.

We trust that the foregoing has satisfactorily responded to your inquiry. Please advise if additional information or clarification should be necessary.

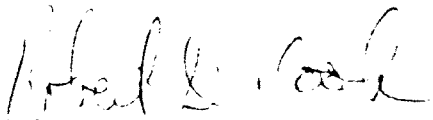
Sincerely,

Patricia D. Petway
Patricia D. Petway
Assistant Attorney General

PDP/an

Enclosure: Op. Atty. Gen. (March 6, 1980)

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions