

1984 WL 249934 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 17, 1984

*1 The Honorable Larry Blanding
Member
House of Representatives
Box 1446
Sumter, South Carolina 29150

Dear Representative Blanding:

Your letter addressed to Mr. Medlock has been referred to me. You have inquired if the Sumter County Council has legal standing to continue to operate county business and to hold office.

As you are aware, the Justice Department objected to the 1976 submission of the at large method of election for the County Council. This objection has been the subject of several lawsuits, the consequence being that no elections have been held in Sumter for several years and the Council has continued to hold over. There is no prohibition to this procedure and, in fact, it is a recognized principle of law that an incumbent must hold over as a de facto officer until his successor is elected and qualified. [Morris v. Scott](#), 258 S.C. 435, 189 S.E. 2d 28 (1972); [Bradford v. Byrnes](#), 221 S.C. 255 (1952); [Langford v. Board of Fisheries](#), 217 S.C. 118 (1950); [Smith v. City Council of Charleston](#), 198 S.C. 313 (1941); [Heyward v. Long](#), 178 S.C. 351 (1935). The purpose of this hold over doctrine is to further the public interest in ensuring continuity in the operation of the government and the provision of governmental services. [Bradford v. Byrnes](#), *supra*; 63 Am.Jur.2d, [Public Officers](#), §§ 158, 160; 67 C.J.S., [Officers](#), § 71; see also, [Rogers v. Coleman](#), 245 S.C. 32 (1964).

The fact that these officers held over due to an objection from the Justice Department and subsequent litigation regarding the at large method of election would not alter the general principles of law set out above. [Horry County v. United States](#), 449 F. Supp. 990 (D.C. 1978); [U.S. v. Co. Commission, Hale County, Alabama](#), 425 F. Supp. 433 (S.D. Ala. 1976), *aff'd* 430 U.S. 924 (1977); [Berry v. Doles](#), 438 U.S. 190 (1978).

Therefore, the Sumter County Council has legal standing to continue to hold office and to operate county business.

Sincerely,

Treva G. Ashworth
Senior Assistant Attorney General

1984 WL 249934 (S.C.A.G.)

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.