

1983 WL 181768 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 24, 1983

*1 Honorable Thomas M. Marchant, III
Member
House of Representatives
Post Office Box 11867
Columbia, South Carolina 29211

Dear Representative Marchant:

You have requested information as to whether the lands which constitute Paris Mountain State Park could be transferred by the Department of Parks, Recreation and Tourism to Greenville County, either by sale or by long term lease, or to another political subdivision.

From the deeds which you have enclosed, it appears that 1125 of the roughly 1300 acres which constitute the state park were conveyed to the State Forestry Commission in 1935 by the City of Greenville. Presumably, this land is presently held or controlled by the Department of Parks, Recreation and Tourism, although I have found no statute or deed which specifically effects such a transfer.

Assuming, however, that this state park land is under the control of the Department of Parks, Recreation and Tourism, the statutory authority for sales, exchanges or leases of lands by that department is set forth in § 51-3-90, which provides as follows: The Department of Parks, Recreation and Tourism may sell, exchange or lease lands under its jurisdiction when in its judgment it is advantageous to the State to do so in the highest orderly development and management of State Parks; provided, however, that any such sale, lease or exchange shall not be contrary to the terms of any contract which it has entered into.

The above section makes it clear that the Department is vested with broad discretion to sell or transfer state park lands. However, the deed from the City of Greenville, which conveys most of the acreage of the park to the State has a condition which provides: That said property shall only be used for State park purposes; if at any time it is abandoned for such, or used for any purpose inconsistent with such use, it shall thereupon revert to the grantor, its successors and assigns.

The deeds for the remaining two hundred acres contain no such conditions. However, it is clear that the only way the title to the 1125 acres can comply with the above conditions is for it either to be held by the State, or to revert to, or be conveyed back to, the City of Greenville. If a conveyance by the State to any other person or entity were to occur, the condition quoted above would require that the land would revert to the City.

Based on the foregoing, it is the opinion of this office that the Department of Parks, Recreation and Tourism has the statutory authority to convey any state park land which, in its discretion, may be advantageous for the state to convey; but that in the case of the 1125 acres conveyed to the State by the City of Greenville, the Department has only the option of retaining the land or conveying it back to the City of Greenville.

Sincerely yours,

Kenneth P. Woodington
Senior Assistant Attorney General

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