

1983 WL 181902 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 31, 1983

***1 Re: The Spartanburg County Foundation/Oakwood Cemetery**

Robert L. Wynn, III, Esquire
Attorney at Law
Post Office Drawer 1897
Spartanburg, South Carolina 29304

Dear Mr. Wynn:

Thank you for your letter of May 9, 1983, addressed to the Attorney General concerning a proposal wherein Spartanburg County Foundation would secure contributions for the maintenance and care of Oakwood Cemetery. You have asked whether the provisions of Chapter 55, Title 39 of the South Carolina Code of Laws, 1976, would be applicable to this undertaking by the Spartanburg County Foundation. I would advise that under the description provided in your memorandum of May 9, 1983, that Chapter 55, Title 39 of the South Carolina Code would be inapplicable to the Spartanburg County Foundation's proposal to solicit funds to maintain Oakwood Cemetery.

Although there is neither case law nor prior published opinions by this office dealing with the applicability of Chapter 55 of Title 39 to an eleemosynary corporation, which merely refurbishes and maintains a filled cemetery from funds obtained by donations, it seems clear from a reading of the statute that it was not the intent of the General Assembly to include such foundations within the licensing law. I have enclosed two previous opinions issued by this office which interpret the original Perpetual Care Cemetery Act as a statute intended to protect the public from losses inflicted by persons 'selling' cemetery plots. I concur with the reasoning in your memorandum of May 9, 1983 and concur as well with the conclusion rendered therein.

Very truly yours,

Edwin E. Evans
Senior Assistant Attorney General

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