

1981 WL 157953 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 3, 1981

*1 Leonard L. Long, Jr., Esquire
Long Smith & Jordan
Post Office Box 419
Charleston, South Carolina 29402

Dear Leonard:

In response to your request for an opinion from this Office concerning whether or not the Charleston County Council is authorized to enter into a loan guarantee arrangement with the Peters Field Community Association, a private, eleemosynary corporation, in the amount of \$6,000 in the event that other local sources of funds are unavailable, my opinion is that it most probably is not so authorized.

This Office has consistently taken the position that the donation or loan of public funds to non-profit organizations must be considered on the facts of each case. The criteria used have generally been whether or not the non-profit organization is performing a function that could also be properly performed by the public body involved (here, the Charleston County Council) and whether or not the charter of the non-profit organization specifies that, upon dissolution, the assets and other property are restricted to use by similar non-profit organizations. If these criteria are met, we have generally concluded that a donation or loan is authorized. In that regard, I am enclosing copies of past opinions written by this Office which you may find useful in determining the legality of the proposal relating to the Peters Field Community Association.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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