

1982 WL 189330 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 16, 1982

***1 RE: University Inn Lease Agreement**

Honorable Charles E. Hodges
Chairman
Joint Legislative Bond Review Committee
228 Blatt Building
Columbia, South Carolina 29211

Dear Representative Hodges:

Pursuant to action taken at the June 15, 1982, meeting of the Joint Legislative Bond Review Committee, the University of South Carolina has requested an opinion of this Office in connection with the captioned matter. We have reviewed the lease agreement between the University of South Carolina and the Carolina Research and Development Foundation dated January, 1982, and executed by the University on February 24, 1982, the letter amendment to the Lease dated February 24, 1982, and related documentation.

We are advised by Paul Ward, University Counsel, that some members of the Committee may not have been aware of the lease amendment, when giving conditional approval to the project. Although the Carolina Research and Development Foundation could cancel the lease on ninety days notice under paragraph 5(d) of the lease agreement, the amendment provides for graduated liquidated damages to be paid to USC in the event of such early termination. Although this Office is not in a position to evaluate the exact sufficiency of the agreed liquidated damages, they appear to correspond to the cost of the improvements as depreciated annually over the life of the lease. We must assume, therefore, that the amendment was bargained in good faith and with due regard to the value of the improvements to be made by the University.

Accordingly, it is the opinion of this Office that the lease, as amended, adequately protects the interests of the University in event of early termination of the lease by the lessor.

Sincerely,

Frank K. Sloan
Deputy Attorney General

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