

1982 S.C. Op. Att'y. Gen. 72 (S.C.A.G.), 1982 S.C. Op. Att'y. Gen. No. 82-73, 1982 WL 155042

Office of the Attorney General

State of South Carolina

Opinion No. 82-73

December 14, 1982

*1 Mr. David A. MacLellan
Chief
Sea Pines-Forest Beach
Chairman, State Fire Commission
Hilton Head Island, South Carolina 29928

Dear Chief MacLellan:

Thank you for your letter of December 7, 1982, concerning the action of the Budget and Control Board in its decision upon the issue of whether or not the First Baptist Church of Moncks Corner could maintain a school for children under the age of seven on the second floor of its building in Moncks Corner. The Fire Marshal had determined that the provisions of the Southern Building Code, specifically Section 406.3-7 thereof, required that children of this age group not be kept on the second floor level. The Fire Marshal's decision was upheld upon appeal to the Appeals Panel, an advisory group to the Budget and Control Board, and from there, an appeal was taken to the Budget and Control Board.

The Budget and Control Board reversed the findings of the Fire Marshal and of the Appeals Panel and approved the use of second floor facilities for children of the age group involved.

Your letter inquires as to the basis upon which any recommendation was made by this Office to the Budget and Control Board.

Mr. Frank Sloan, Deputy Attorney General, is advisor to the Budget and Control Board and I have discussed the matter with him. I have also had read to me the pertinent part of the Minutes considering this matter. While those Minutes are not precise, verbatim recordings of all discussions which took place before the Budget and Control Board, they do reflect that Mr. Sloan advised the Budget and Control Board 'that something of a loophole' existed with respect to the meaning to be given to Section 406.3-7 concerning the meaning of 'exit discharge.' The Minutes do not reflect any discussion with respect to the definitions set forth in Sections 1102(a) and 1102(a)(1), but I am informed that Mr. Campbell, the Fire Marshal, explained this in detail to the Appeals Panel.

Mr. Sloan also advised the Budget and Control Board that an amendment to the Southern Building Code to clarify this question beyond any doubt was in the process of being formulated and expected to be adopted by the beginning of the year 1983.

He also advised the Budget and Control Board that the Fire Marshal and Appeals Panel did not agree with the proposed order of the Budget and Control Board which overturned the decision of the Fire Marshal and the Appeals Panel.

As noted, the Minutes are not a verbatim transcript of the discussions which took place before the Budget and Control Board.

I am reliably informed that there were quite a number of discussions which took place but it is impossible to state precisely the substance of these discussions.

Mr. Sloan has stated to me that he informed the Budget and Control Board, or members thereof, that the position taken by the Fire Marshal and the Appeals Panel was suggested by the Southern Building Code Council; nevertheless, he stated that the matter was not entirely free from doubt or, in his own words as reflected in the Minutes of the meeting, 'that a technical

loophole existed.' He also informed them that the Department of Social Services had reached an opinion different from that of the Fire Marshal.

*2 In the relatively short time available since receiving your letter, the above information is that which I have been able to accumulate, and, to the best of my information, is the basis upon which the discussions with the Budget and Control Board by this Office were conducted. No recommendation was made by this Office to the Budget and Control Board but Mr. Sloan attempted to lay before the Budget and Control Board the best knowledge, information and belief which existed in his mind with respect to the treatment to be given to this appeal.

Very truly yours,

Daniel R. McLeod
Attorney General

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