

1982 WL 189421 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 10, 1982

*1 Mr. Charles D. Hancock, Jr.
Homeownership Finance Specialist
S.C. State Housing Authority
2221 Devine Street
Suite 540
Columbia, South Carolina 29205

Dear Mr. Hancock:

You have requested an opinion as to the propriety of the Housing Authority using a figure from the applicant's federal income tax return in order to determine his eligibility for participation in an upcoming program. I conclude that this would be proper for two reasons.

The first reason is that the figures for income are to be compared with the South Carolina figure for median family income as defined by the U.S. Department of Commerce, Bureau of the Census. That figure is derived from the statements of persons who are inquired about their salary and income when the census is taken. Obviously, this figure will be somewhat inexact, but we can probably presume that it bears a close similarity to the federal income tax return figure. I do not believe that it would be appropriate to require the applicant to submit to fine details of income determination when the figures with which his income are compared come from such inexact sources.

The second reason is based more on practicality. The Authority has no truly exact way to determine what a person's income is at a given time, but the income tax return comes closest to this. In addition, there is already a body of law in existence for this definition which would answer a number questions relatively quickly and would probably provide some savings to the Authority. Finally, it is unlikely that the average applicant for a Housing Authority mortgage would be possessed of any large recurring amount of income which would not appear on the federal income tax form.

For the foregoing reasons, it is therefore the opinion of this office that a figure from the federal income tax return may be used to determine a person's income. I understand that this will be used only as a backup and would not be used when more recent figures indicate a different income, at least where those figures are credible. Finally, I would point out that if the Authority makes any exemption for living expense, paper losses, and the like, it might be advisable to use some line on the federal income tax form which provides for adjusted gross income rather than merely gross income, I do not know what the Authority's policy is on this, however.

Sincerely yours,

Kenneth P. Woodington
Senior Assistant Attorney General

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