

1982 WL 189438 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 24, 1982

***1 RE: Batteries on Sullivan's Island**

Honorable Richard W. Riley
Governor
State of South Carolina
State House
Columbia, South Carolina 29201

Dear Governor Riley:

I have now received sufficient information to be able to issue an opinion as to what the Town of Sullivan's Island might legally be able to do to protect certain batteries on Sullivan's Island from vandalism and other unlawful actions. As you may recall, the plans include such things as using the batteries for storage space for a civil engineer's plans, practice rooms for musicians, rooms in which artists may work, and similar uses.

The land in question was originally conveyed to the State of South Carolina by the United States in 1950. This conveyance was made subject to the condition that for 21 years, the premises would be used for an historic monument and for no other purpose. The 1950 deed also provided that unless the United States acted upon violations of the conditions within 21 years within the date of the deed, all of the conditions and the rights of the United States of America to re-enter would as of that date terminate and be extinguished.

It thus appears that the rights of the United States terminated in 1971. In addition, it appears that the parties viewed the conditions as satisfied earlier, because in 1967 the State of South Carolina reconveyed some of the premises to the United States to be used for the Fort Moultrie National Historical Monument. Whether the conditions were satisfied in 1967, the date of the reconveyance, or in 1971, 21 years after the original deed, is now a moot question. Under any construction of the documents, the State of South Carolina acquired full fee simple title to the parcel now in question by 1971.

Title to the land presently rests in the township of Sullivan's Island by reason of a 1967 deed from the Budget and Control Board to the township. It is this deed which contains the condition that the lands shall revert to the state 'if said lands should cease to be used for public purposes.' As I noted in my letter to you dated September 10, 1982, the uses contemplated are rather difficult to fit within the concept of 'public purpose.' However, there is no question that the Budget and Control Board could release this possibility of reverter or could modify it as the Board saw fit, and it is this course which I would recommend if this Board is so inclined.

If I can be of any further assistance, please let me know.

Sincerely yours,

Kenneth P. Woodington
Senior Assistant Attorney General

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