

1980 WL 120652 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 4, 1980

*1 Mr. Wm. Reaves McCall
Chairman
Hartsville Community Center Building Commission
Post Office Box 578
Hartsville, South Carolina 29550

Dear Mr. McCall:

With apologies for the delay, I am writing in response to your request for an opinion from this Office as to whether or not the Hartsville Community Center Building Commission (Building Commission) is authorized to transfer a savings account presently in the name of the Hartsville Memorial Library Commission (Library Commission) to itself in order to simplify bookkeeping inasmuch as the Library Commission is no longer in existence. In my opinion, such a transfer would require the sanction of a court of competent jurisdiction.

As I understand the chronology, the Building Commission was originally created in 1934 [38 STAT. 1907 (1934)] and was re-created in 1961. 52 STAT. 443 (1961). The Library Commission was originally created in 1936 [39 STAT. 1371 (1936)] with the members of the Building Commission serving ex officio as Library Commission members and constituting the Library Commission. In 1974, the legislation providing for the Library Commission was repealed. 58 STAT. 2865 (1974). In 1969, however, while the Library Commission was still legally in existence, Act No. 653 of 1969 was enacted, providing in part as follows:

Any funds presently in the hands of the Hartsville Memorial Library Commission which are not necessary for the operation of the commission may be transferred to the Hartsville Community Center Building Commission to be used as it deems appropriate. 56 STAT. 1224 (1969).

During its existence, then, the Library Commission could have transferred its savings account to the Building Commission. I doubt, however, that the Building Commission, acting as the Library Commission, can on its own motion utilize the provisions of the 1969 legislation because the Library Commission no longer legally exists. For this reason, I would suggest that the Building Commission seek judicial approval for the contemplated transfer. Hopefully, the 1969 legislation, coupled with the fact that the Building Commission owns the library building, would provide sufficient basis for approving the transfer.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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