

1980 WL 121137 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 2, 1980

\*1 David H. Crum, Esquire  
Crum, Crum and Crum  
East Butler Street  
Denmark, South Carolina 29042

Dear Mr. Crum:

Your letter of March 27, 1980, to Mr. McLeod has been forwarded to me for reply. As City Attorney for the Town of Denmark, you have asked the following question: 'Does a municipality of less than 5,000 persons have authority to enter upon the premises of an owner and demolish a substandard dwelling without an application to the Civil Courts for approval of such action, assuming, of course, that the ordinance requirements as to the taking of such action reorder due process and are followed?

In an earlier opinion of this Office dated November 21, 1975, a copy of which is enclosed, it was concluded that statutory authorization for slum clearance and/or redevelopment by municipalities can only apply to those municipalities which possess such power by virtue of an amendment to [Article 14, § 5 of the State Constitution](#). Bamberg County is not one of the counties for which this constitutional permission has been granted, and it is therefore the opinion of this Office that no municipality in Bamberg County possesses authority to undertake and carry out slum clearance and redevelopment work in blighted areas under [§ 5-7-50, 1976 Code of Laws of South Carolina](#).

Another possibility is that the City might be able to demolish the building, not so that the land may be redeveloped, but simply because the building is unfit. Under this theory, the land would not be taken at all. Unfortunately, the Code provisions which permit municipalities to do this, §§ 31-15-10, et seq., pertain only to municipalities having a population of more than 5,000 inhabitants. It is the opinion of this Office that the plain language of that statute and the negative implication to be drawn from the fact that no such legislation exists for cities of under 5,000 persons indicate that a city of under 5,000 may not require substandard dwellings to be demolished or renovated.

Sincerely yours,

Kenneth P. Woodington  
Assistant Attorney General

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