

1980 WL 121237 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 22, 1980

\*1 The Honorable James W. Graves

Member

House of Representatives

State House

Post Office Box 11867

Columbia, South Carolina 29211

Dear Representative Graves:

You have requested an opinion as to whether or not the Hilton Head Public Medical Clinic District (hereinafter 'Medical Clinic District') may lawfully transfer title to an ambulance and an intensive care rescue vehicle to the Hilton Head Island Rescue Squad (hereinafter 'Rescue Squad'), and furthermore whether the Medical Clinic District can charge the Rescue Squad a nominal rental for the space occupied by both vehicles. It is the opinion of this Office that the Medical Clinic District may convey the vehicles to the Rescue Squad but not as a gift, and that the Medical Clinic District may not lease the Rescue Squad space for those vehicles.

The powers of the Medical Clinic District are set out in § 4, Act No. 1346, South Carolina Acts and Joint Resolutions, 1970. This section grants to the Medical Clinic District the power, among others, 'to acquire by gift, or purchase, or otherwise, all kinds and descriptions of real and personal property.' There is no express grant of power to convey or dispose of personal property. However, any public corporation, such as the Medical Clinic District, possesses the power to dispose of any property which it has the power to acquire. See [Kirkland v. Johnson](#), 209 Ga. 824, 76 S.E.2d 396 (1953); [Southport v. Stanley](#), 125 N.C. 464, 34 S.E. 641 (1899); McQUILLEN, MUNICIPAL CORPORATIONS, § 28.37.

The Medical Clinic District may not, however, convey the vehicles to the Rescue Squad at a price below the market value of the vehicles, in effect, making a gift of the vehicles to the Rescue Squad. The Medical Clinic District is not given, in its grant of powers, the authority to make gifts. Since the powers of a public service district are to be construed strictly, § 30H.04 ANTIEAU, LOCAL GOVERNMENT LAW, the Medical Clinic District does not have the legal authority to simply donate the vehicles to the Rescue Squad. However, in the event that the Medical Clinic District sells the vehicles to the Rescue Squad for a sum deemed by the Board of Commissioners of the District to be reasonable consideration, the Court will not interfere with that conveyance at the suit of a taxpayer absent illegality, fraud, or clear abuse of their authority. See [Green v. City of Rock Hill](#), 149 S.C. 234, 262, 147 S.E. 346, 356 (1929).

By the same token the Medical Clinic District is not given the power to lease property, with the exception of the provision set out in § 4(13) of Act No. 1346, in which it is empowered to 'lease its medical clinic facilities to any person or corporation . . . to operate a medical clinic . . .'. The proposed lease to the Rescue Squad would not be to operate a medical clinic, but would be for some other purpose not specifically allowed by statute. Since the powers of a public service district are to be construed strictly, § 30H.04 ANTIEAU, *supra*, the Medical Clinic District may not lease space to the Rescue Squad for the purpose of housing vehicles.

\*2 Perhaps the vehicles could be donated and parking space rented to the Rescue Squad if the General Assembly would enact a statute which dissolves the Medical Clinic District and provides for the county government to take over its functions in accordance with § 4-9-80, S.C. CODE, 1976, (as amended). The County could then provide for the transfer of the vehicles and

the lease of the building space. However, short of such an act the county council could not by resolution allow the conveyance of those vehicles or the lease of the building space.

Sincerely yours,

David C. Eckstrom  
State Attorney

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