

1980 WL 120721 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 17, 1980

*1 O. Terry Beverly
Conway City Attorney
Post Office Box 1506
Conway, South Carolina 29526

Dear Mr. Beverly:

In response to your request for an opinion from this Office as to whether the mayor or the council in the council form of municipal government has the authority to appoint the members of the Conway Housing Authority, my opinion is that the mayor has the authority pursuant to [Section 31-3-340, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended. That statute has not been expressly repealed by the provisions of Act No. 283 of 1975, the 'home rule' legislation, and, in my view, it has not been impliedly repealed because it is not in conflict with any provision of the home rule legislation. [Section 5-11-40, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, speaks to municipal departments, offices and agencies established by the council and the Conway Housing Authority is established pursuant to [Sections 31-3-310 et seq., CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended. It may be that an argument can be made that [Section 5-11-30 of the Code](#), which vests all 'administrative' powers of the municipality in the council, has superseded the provisions of [Section 31-3-340 of the Code](#). Of course, a judicial determination of the question pursuant to the Uniform Declaratory Judgments Act [[§§ 15-53-10 et seq., CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended] is the only means by which it can be definitively resolved. Until and unless a court of competent jurisdiction declares otherwise, however, I am of the opinion that as long as [Section 31-3-340](#) remains a part of the general law of the State, its mandate should be followed.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

1980 WL 120721 (S.C.A.G.)

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.