

1980 S.C. Op. Atty. Gen. 136 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-88, 1980 WL 81970

Office of the Attorney General

State of South Carolina

Opinion No. 80-88

August 11, 1980

*1 Ms. Dorothy A. Manigault
Executive Assistant for Legal Affairs
Office of the Governor
Post Office Box 11450
Columbia, South Carolina 29211

Dear Ms. Manigault:

You have inquired as to whether the Governor can order the appointment of new surveyors to survey the boundary lines of the proposed annexation area in the Horses Neck section of Lexington County. You further inquire as to whether or not the Governor has the authority to discharge the annexation commission previously appointed due to stalemate.

Former Governor Edwards appointed four commissioners on the 9th day of July, 1975, to perform the duties imposed upon them pursuant to the annexation laws of this State. Two of these commissioners are presently serving and two of the commissioners originally appointed were succeeded by other appointees at a time not known to me. Apparently, no progress was made toward the completion of the procedure for annexation. It is my understanding that in the latter part of 1979 or during the year 1980, three surveyors were appointed, as required by law, and the cost of the survey submitted by them was in the approximate amount of \$8,000 to \$9,000. Previously, the petitioner, had deposited the amount of \$1,000 with the Clerk of court for Lexington County during the year 1975.

The petitioners are required to deposit an amount of money sufficient to cover the expenses of survey and plats and other necessary expenses with the treasurer of the county whose territory is proposed to be reduced. [Section 4-5-150, Code of Laws, 1976](#). The amount deposited is not sufficient to cover this known cost and there has been a failure to make such deposit since approximately April 1980.

In my opinion, the Governor does not have the authority to discharge these surveyors. That is a matter resting between the commissioners who employed the surveyors, and one which is not within the scope of the Governor's authority.

It is my opinion, also, that the Governor does not have the authority to discharge the annexation commissioners heretofore appointed and now serving unless there should exist a prolonged or persistent failure to undertake the duties imposed upon them by the laws of the State. The annexation commission has been in existence for a period of five years. This clearly appears to be a sufficient period of time for the matter to progress further than it has and the point at which the continuance of the commission may appear to be futile has about been reached. It is my opinion that the Governor should notify the commissioners that unless a deposit of a sufficient amount of money to cover the expenses of the annexation is made with the Clerk of Court for Lexington County within 15 days, they will be discharged and the proceedings for annexation terminated.

Very truly yours,

Daniel R. McLeod
Attorney General

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