

1977 S.C. Op. Atty. Gen. 62 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-63, 1977 WL 24405

Office of the Attorney General

State of South Carolina

Opinion No. 77-63

February 25, 1977

*1 The Adjutant General is authorized to exchange obsolete armory property for the purpose of acquiring new property for training facilities.

TO: Brigadier General James W. Henderson
Deputy Adjutant General

QUESTION PRESENTED:

May the Adjutant General exchange obsolete armory property for other real property suitable for the erection of a new armory?

CITATION OF AUTHORITIES:

Section 44–101 and 44–105, Code of Laws of South Carolina (1962), as amended.

[Mauldin v. Milford](#), 127 S. C. 508; 121 S. E. 547 (1924);

[Barton v. Jones](#), 206 Ky. 238, 267 S. W. 214 (1924).

DISCUSSION:

The Adjutant General proposes to exchange its present Fort Mill Armory for an abandoned school property of similar value near Fort Mill and to build a new armory facility on that property. Section 44–105 of the Code authorized the Adjutant General to sell obsolete armories and use the proceeds for the construction of new armories. Moreover, Section 44–101 authorizes the Adjutant General to acquire real property for the purpose of erecting new armories as long as the costs of such acquisition can be absorbed by current appropriations. It should be noted that since properties will be exchanged, the present acquisition will result in no additional liability to the military department.

In [Barton v. Jones](#), 206 Ky. 238, 267 S. W. 214, 216, (1924), the Kentucky Court of Appeals stated the following:
An ‘exchange of lands’ is nothing more or less than a sale. The only difference is in the mode of paying the consideration. If, instead of paying money, one pays land, it is nevertheless a sale.

Similarly, our Supreme Court has held that an exchange of property is merely a double sale . . . [Mauldin v. Milford](#), 127 S. C. 508, 121 S. E. 457 (1924). Therefore, since the present transaction falls within the Adjutant General's authority to acquire and sell land, i.e., the Adjutant General could sell the obsolete armory and use the funds to purchase new lands, the Adjutant General has authority to accomplish the same result by the exchange of property.

CONCLUSION:

The adjutant General is authorized to exchange obsolete armory property for new property of similar value.

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