

1977 WL 37050 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 17, 1977

*1 The Honorable T. Ed Garrison
Member
South Carolina Senate
Route 2
Anderson, South Carolina 29621

Dear Senator Garrison:

In confirmation of my discussion with you this morning, it is my opinion that the bill relating to local planning commissions would be unconstitutional in that it provides that a majority of the members of such commissions shall be property owners in the areas over which the commission has planning jurisdiction. I base this conclusion on the holding in the decision of the United States Supreme Court set forth below, which struck down a similar provision with regard to school districts. The planning commission is advisory but its decisions and recommendations cannot be considered as other than having a very decided impact upon planning procedures for local areas, and I doubt that its validity could be sustained. The test in such cases is whether or not a compelling State interest is subserved by such classification and, in my opinion, it would be very difficult to demonstrate such an interest.

With best wishes,
Cordially,

Daniel R. McLeod
Attorney General

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