

1977 WL 37423 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 14, 1977

*1 Mr. James Verner
1219 Boyce Street
Newberry, South Carolina 29108

Dear Mr. Verner:

Recently you requested an opinion on the proper construction of § 5-3-150(1), CODE OF LAWS OF SOUTH CAROLINA, 1976, relating to the status of property owned by a governmental or religious body in determining the proper number of signatures for an annexation petition under this code section. My opinion is that this property is excluded from a determination of 'seventy-five percent of the freeholders.'

There is no case holding on the precise question you have raised. The statutory language, however, requires the signatures of '... seventy-five percent or more of the freeholders, as defined in § 5-3-240 owning at least seventy-five percent of the assessed valuation of the real property in the area requesting annexation.' The court has held that this section requires the signature of freeholders owning seventy-five percent or more of the assessed value of the area to be annexed. [General Battery Corp. v. Greer](#), 263 S.C. 533 at 538, 211 S.E.2d 659 at 661 (1975). By your statement the properties in question have no assessed value. Therefore, according to the clear wording of the statute, property owned by governmental or religious bodies would not be included in the determination of seventy-five percent. Such a construction is not inconsistent with general law on the subject of annexation. 'In the absence of constitutional limitations, it is generally considered that ... the [state] legislature has power ... to authorize an extension of ... [a municipal corporation's] boundaries, without the consent of the inhabitants of the territory annexed ... or even against their express protest.' 56 AM.JUR.2d § 55.

This is simply an opinion as to the correct construction of the statute in question. It should be noted that there are certain valid considerations which would support an opposite conclusion. However, in the absence of a judicial determination of your question, I believe that the above opinion is the correct interpretation of this statutory section.

Sincerely yours,

Karen LeCraft Henderson
Assistant Attorney General

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