

1978 WL 34761 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 13, 1978

\*1 Charles W. Whetstone, Jr.  
Attorney at Law  
P. O. Box 437  
St. Matthews, SC 29135

Dear Mr. Whetstone:

Mr. McLeod has referred your recent letter to me for reply. You have stated that in the town of Santee an election was held to elect two councilmen. You have further stated that there is a question concerning if these councilmen were elected for one year terms or two year terms. The election was not conducted under Home Rule. Specifically, you have raised the following questions:

(1) Could the Councilmen have been elected for one year terms even though the Home Rule Act specifies only two year terms?

If the previous laws governing elections in Santee provided for councilmembers to be elected to one year terms, and if the councilmembers in the March, 1977, elections were elected under these provisions, it is possible for the councilmembers to have been elected for one year terms.

(2) Can a Town stagger the election of its Mayor and Councilmen without electing them to four year terms?

No.

(3) How can the election process for the Town be corrected to comply with the Home Rule Act?

Assuming you have met all the prerequisites to coming under the Home Rule Act, i.e., filing with Secretary of State, approval from Justice Department, you would go under the Home Rule Act in the upcoming election. It does not appear from the information that you have given me that you would have to correct any existing provisions in order to comply.

Very truly yours,

Treva G. Ashworth  
Assistant Attorney General

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