

1978 WL 34782 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 20, 1978

\*1 Honorable Theodore S. Stern  
President  
The College of Charleston  
Charleston, South Carolina 29401

Dear President Stern:

I have received a copy of your letter of February 24, 1978, to Mr. Ellis M. Gillum, the City of Charleston Public Safety and Housing Officer, in which you request the opinion of this Office as to whether or not the College of Charleston, a State agency, must comply with the requirements of municipal building regulations. In my opinion, the College of Charleston should comply with the requirements because it can be compelled to so comply by court action; on the other hand, however, the College may not be subject to permit requirements or other prospective methods of enforcing building regulations, as hereinafter discussed.

According to a previous opinion of this Office dated September 1, 1976, while [Section 6-7-830, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, requires State agencies, departments and subdivisions, *inter alia*, to comply with municipal zoning ordinances, there is no requirement placed upon State agencies, departments and subdivisions to obtain building permits or to submit to other locally adopted methods of enforcing those ordinances. The opinion reaches that conclusion because [Section 6-7-830](#) itself expressly provides for the method by which a city is to compel State agencies to comply with its zoning ordinances, to wit: the city may seek injunctive or other appropriate relief against the offending State agency in court. [§ 6-7-830\(b\), CODE OF LAWS OF SOUTH CAROLINA](#), 1976. Other means of local control such as building permits, the opinion asserts, are not applicable to State agencies.

The authority for cities to enact zoning ordinances, including those regulating the reconstruction or alteration of buildings and structures, if found in more than one piece of legislation. [Sections 5-23-10 et seq., CODE OF LAWS OF SOUTH CAROLINA](#), 1976, relate to municipal zoning and planning and authorize a municipal governing body, acting upon the recommendations of its zoning commission if it sees fit to adopt those recommendations, to 'provide for the manner in which such regulations and restrictions . . . shall be . . . enforced . . . ' [§ 5-23-40, CODE OF LAWS OF SOUTH CAROLINA](#), 1976. [Sections 6-7-310 et seq., CODE OF LAWS OF SOUTH CAROLINA](#), 1976, relate to local planning and authorize a municipal governing body, *inter alia*, to 'provide for the enforcement of any ordinance or resolution . . . by means of the withholding of permits . . . ' [§ 6-7-800, CODE OF LAWS OF SOUTH CAROLINA](#), 1976. See also, §§ [5-23-41 et seq., CODE OF LAWS OF SOUTH CAROLINA](#), 1976. Clearly, then, a city is not limited to injunctive relief as the only method for enforcing its zoning ordinances *except* insofar as a State agency is concerned. This is so because the 1976 legislation which provides that State agencies are subject to municipal zoning regulations, insofar as it provides for the means of insuring compliance, does not state 'in addition to all other means of enforcement heretofore provided for to compel compliance with zoning ordinances' or words of similar import. In other words, [Section 6-7-830\(b\), CODE OF LAWS OF SOUTH CAROLINA](#), 1976, provides the exclusive method by which a city can enforce its zoning ordinances with respect to a State agency, *i.e.*, by seeking injunctive relief.

\*2 This opinion is not free from doubt, however, and a definitive resolution of your question can be obtained only by judicial interpretation rendered pursuant to [Sections 15-53-10 et seq., CODE OF LAWS OF SOUTH CAROLINA](#), 1976, the 'Uniform Declaratory Judgments Act.' Whether or not a court would hold that the General Assembly did not intend to limit cities and counties to injunctive relief vis a vis State agencies or, alternatively, that cities and counties

cannot subject State agencies to local requirements except by court action is uncertain. I would recommend that a declaratory judgment be sought on the question which you have posed for it is one of State-wide relevance. In addition, the questions of whether State agencies are presently subject to ordinances enacted pursuant to [Section 5-7-80, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, relating to the upkeep of property, and to building codes adopted pursuant to [Sections 6-9-10 et seq., CODE OF LAWS OF SOUTH CAROLINA](#), 1976, or whether legislation such as [Section 6-7-830](#) must be enacted in order to make them so subject, cannot be answered with complete certainty and their judicial resolution should also be sought. See generally, 8 McQUILLIN MUNICIPAL CORPORATIONS § 25.15 (3rd ed.).

With kind regards,

Karen LeCraft Henderson  
Senior Assistant Attorney General

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