

1975 S.C. Op. Atty. Gen. 20 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 3940, 1975 WL 22238

Office of the Attorney General

State of South Carolina

Opinion No. 3940

January 22, 1975

***1 Re: Estates of Flintom to the Citadel**

Honorable Ben Scott Whaley
Barnwell, Whaley, Stevenson & Patterson
Attorneys at Law
Post Office Drawer H
Charleston, South Carolina 29402

Dear Mr. Whaley:

Reference is made to your letter of January 16, 1975. You advise that the Citadel, the Military College of South Carolina, is purchasing a home for President Emeritus Clark and you request the opinion of whether the deed transferring the property to the Citadel would be exempt from documentary stamp taxation.

Section 65-689 exempts any deed, instrument or writing whereby any lands, tenements or other realty shall be granted, assigned, transferred or otherwise conveyed to, or vested in, the State of South Carolina, or any of its political subdivisions and departments, for highway or other public purposes.

The question here is whether this conveyance is for a public purpose. While the definition of the term 'public purposes' is difficult, it is the opinion of this office that the term is used in the Section as synonym with a governmental purpose and is to be given the definition similar to that found in 71 Am. Jur. 2d, State and Local Taxation, Section 44, page 373, that provides:

'* * *. It means a purpose affecting the inhabitants of the State or taxing district, as a community, and not merely as individuals. This does not mean, however, that a tax is not for a public purpose unless the benefits from the funds to be raised are to be spread equally over the whole community or a large portion thereof. A use may be public although it is of benefit primarily to the inhabitants of a small and restricted locality. * * *.'

Under this analogy it is the opinion of this office that the deed would be subject to documentary stamp taxation.

Yours very truly,

Joe L. Allen, Jr.
Assistant Attorney General

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