

1975 S.C. Op. Atty. Gen. 38 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 3968, 1975 WL 22266

Office of the Attorney General

State of South Carolina

Opinion No. 3968

February 10, 1975

\*1 The Honorable H. Keith Vanderford  
Member  
House of Representatives  
Post Office Box 37  
Carlisle, South Carolina 29031

Dear Mr. Vanderford:

You have requested my opinion as to whether public funds may be validly spent in the maintenance or establishment of driveways on private property outside the rights of way of public roads.

It is my opinion that public funds or equipment may not be used on private property. The basis of this conclusion is set forth in the attached opinions which are identified at the foot of this letter.

If a limitation upon the extent or length of such driveways beyond the right of way is established by statute, authorization for such work would possibly be approved by the Supreme Court of this State, but unless and until such a declaration is made by the Court, my opinion is as indicated above. A number of factors could affect the disposition of such a case, in my opinion. For example, the length of the extension of the driveway at public expense beyond the right of way, the need for public maintenance of such extension in each instance, and the varying circumstances in each instance, as well as the uniform allowance of the work, would appear to be among the factors which a court would consider in passing upon the validity of such an authorization.

I therefore advise that, in my opinion, a statute authorizing the performance of work on private property would be invalid.

With best wishes,  
Very truly yours,

Daniel R. McLeod  
Attorney General

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