

1975 WL 29278 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 19, 1975

*1 Colonel John A. May
State Liaison Officer
Bureau of Outdoor Recreation
South Carolina Department of Parks, Recreation and Tourism
Box 113
Columbia, SC 29201

Dear Colonel May:

This is in response to your letter of July 17, 1975, concerning condemnation procedures. Article 1, Section 13 of the South Carolina Constitution states:

Except as otherwise provided for in this Constitution, private property shall not be taken for private use without the consent of the owner, nor for public use without just compensation being first made therefor.

Section 47-68.1 of the South Carolina Code of Laws, attached, gives to municipal corporations the power of condemnation. Sections 25-161, et seq., also attached, set up the 'exclusive procedure for condemnation' to be used by municipal corporations. As you will note in Section 25-162, the City Council and the landowner select freeholders who fix the value of the land. These five freeholders will be the ones who determine how to value the land and who will offset the benefit, if any, to the remaining land against the value of the land taken. In South Carolina, "just compensation" to which the landowner is entitled under Article 1, Section 17 [now Article 1, Section 13], is compensation for the taking, and not for the land taken. In this view of the matter the land is considered as a whole, and the landowner's damage the diminutive of its value by reason of the public work.' [Smith v. City of Greenville, 229 SC 252, 92 SE2d 639 \(1956\)](#).

Yours very truly,

M. Elizabeth Crum
Assistant Attorney General

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