

1975 WL 29279 (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 August 26, 1975, concerning Chesterfield County School District One transferring school property to a group of private citizens.

In 1959, when the property in question was first transferred, the Trustees of the school district were authorized by then Section 21-331 of the South Carolina Code to:

. . . convey by deed any school building within the district which is no longer needed for school purposes. Any such abandoned school building shall be conveyed to the duly elected community trustees of the area constituting the former school district in which it is located, and their successors in office, in trust for the use and benefit of the community as a community building.

This conveyance was to be in accord with Code Sections 21-332 et seq., the most important of which for these purposes, is Section 21-335 which stated:

Should at any time the premises cease to be used as a community center for the purpose stated in this article, possession shall revert to the transferor.

Thus the reverter clause in the 1959 deed was not 'vague' as Mr. Foster states, but it was a necessary incident to the trustee's deed to the citizen's group.

However in 1972, Section 21-331 was rewritten to read:

The trustees of any school district may convey, in fee simple, title to any school building within the district which is no longer needed for school purposes upon compliance with the provisions of Section 21-238.

Section 21-238 provides that:

The school trustees of the several school districts may sell or lease school property, real or personal, in their school district whenever they deem it expedient to do so and apply the proceeds of any such sale or lease to the school fund of the district. The consent of the county board of education or, in those counties which do not have a county board of education, the governing body of the county, shall be first obtained by the trustees desiring to make any such sale or lease. The board of trustees, within thirty days after making any such sale or lease, shall send a report thereof to the county board of education or in those counties which do not have a county board of education, the governing body of the county, setting forth the terms and amount of the sale and lease.

It is the opinion of this Office that the quitclaim deed executed in 1974 was within the Board's powers under Sections 21-331 and 21-238. Further approval of the county governing body was not needed as the school district's powers had devolved to the Board of Trustees by virtue of Section 21-1850, CODE OF LAWS OF SOUTH CAROLINA (1962) (as amended). Thus the community group has a good and clear title to the land in question.

Yours very truly,

*2 M. Elizabeth Crum
Assistant Attorney General

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