

1974 WL 28026 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 10, 1974

*1 Because of the provisions of Act No. 371 (1967), the County Commission for Sumter County and not the County Delegation is the proper body to 'request' that the Tax Commission institute and direct a reassessment program under Section 65-64(19) of the Code.

Honorable Robert C. Wasson
Chairman
South Carolina Tax Commission
Columbia, South Carolina

Dear Mr. Wasson:

This is in reply to your request for an opinion of this office on the question of which body—the Sumter County Delegation or the County Commission for Sumter County—is the proper authority to make a 'request' to the Tax Commission pursuant to Section 65-64(19) of the Code of reassessment of property located in that County. The section provides that the Tax Commission: 'Shall * * * upon the request of any county legislative delegation institute and direct a program of reassessment of all property in such county, so that all property shall be properly and equitably assessed; * * *.'

The use of the word 'shall' makes this so-called 'request' a initiatory direction. See 39 Words & Phrases at 122.

The question has arisen because of a 1967 County Act which created the County Commission for Sumter County. See Act No. 371, 1967 Acts and Joint Resolutions at 523. One of the purposes of this Act, as expressed in Section 2(b), was 'to separate from the County legislative Delegation the duties and responsibilities for County governmental administration, local legislative action and fiscal responsibility.'

Section 9(e) of the Act specifically grants the Commission the following refer:
To provide for a uniform system of ad valorem property tax assessment throughout the county.'

The question, it is believed, is better viewed in terms of whether the General Assembly has left the authority to direct a reassessment in the hands of the County Legislative Delegation although it has empowered the County Commission to provide for a uniform system of property taxation. There is a general rule of law that the same powers are not to be conferred upon two municipal corporations within the same territory. See 62 C.J.S., Municipal Corporations, 585. In the South Carolina case of Wagoner v. Smith, 221 S. C. 438, 71 S. E. 2d 1, it was recognized that this rule exists upon the practical consideration of preventing intolerable confusion of governmental responsibility.

The direction of a county-wide reassessment program is at the heart of providing for a uniform system of ad valorem property tax assessment and it is the opinion of this office that such direction is no longer within the powers of the Sumter County Delegation. There is a manifest repugnancy between the specific Act which seeks to separate from the County Delegation the duties and responsibilities for local legislative action and the general law which, before the passage of the specific Act, granted the County Delegation the authority to direct a reassessment of the property in Sumter County. See Grice v. McDow, 108 S. E. 84, 116 S. C. 324. We, therefore, conclude that the County Commission is now the proper body to direct a reassessment of the property located in Sumter County.

Yours very truly,

*2 John C. von Lehe
Assistant Attorney General

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