

1973 WL 27621 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 5, 1973

*1 Honorable Alexander M. Sanders, Jr.
Member
House of Representatives
P. O. Box 11252
Columbia, South Carolina 29211

Dear Representative Sanders:

You have requested an opinion on whether:

‘the Richland County Council can require that the activities of the County Authority be phased out or turned over to the City of Columbia Housing Authority.’

Generally, a county housing authority is created by the legislative delegation of that county, acting pursuant to Sections 36-184 et seq., of the South Carolina Code of Laws, 1962, as amended. According to Section 36-184 of the South Carolina Code, the legislative delegation and the Senator of the County in which a county housing authority is created perform the same functions that the city council and mayor, respectively, perform vis a vis a city housing authority. When a county housing authority is established after having withdrawn from a regional housing authority, however, the governing body of the county performs the functions of the legislative delegation and Senator pursuant to Section 36-188 of the Code. The Richland County Housing Authority, we are informed, was created in such a fashion in 1969, after having withdrawn from the South Carolina Housing Authority-Region III.

A study of the pertinent Code sections reveals that neither the city council and mayor as concerns a city housing authority nor the legislative delegation and senator as concerns a county housing authority have the power to terminate the existence of their respective housing authorities; and, inasmuch as the governing body of a county has only those power which the legislative delegation/senator and city council/mayor have in relation to their respective housing authorities, there is no statutory authority for the abolition or phasing out of a county housing authority by the governing body of that county.

Section 36-185 of the Code does allow the extension of the territorial jurisdiction of a city housing authority into territory included within the jurisdiction of a county housing authority, but only upon the initiation of the State Development Board and only if a housing project has not been constructed or acquired, or the Board determines that such a project is not about to be constructed or acquired, by the county housing authority within the territory proposed to be included. The Richland County Housing Authority, we are informed, has approximately 100 projects approved for construction within its territorial jurisdiction.

A review of the statutory provisions concerning the powers of the Richland County Council reveals no grant of authority which would allow it to abolish or phase out the Richland County Housing Authority. See, Code of Laws of South Carolina, § 14-3201.4, as amended (1962).

For the foregoing reasons, the opinion of this Office is that the Richland County Council has no authority to require that the activities of the Richland County Housing Authority be phased out or turned over to the City of Columbia Housing Authority.

Very truly yours,

*2 Karen L. Henderson

Legal Assistant

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