

1972 WL 25164 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 4, 1972

***1 Re: Public Housing Authority For Charleston County**

Mr. David G. Traxler, Sr.
State Housing Assistance Administrator
915 Main Street
Columbia, South Carolina 29201

Dear Mr. Traxler:

In your letter to the Attorney General dated December 2, 1971, you first inquired as to whether Charleston County could establish a county housing authority with territorial jurisdiction over that part of the county in which the City of Charleston Housing Authority does not have housing projects.

Were Charleston County to establish a county housing authority pursuant to the Housing Authorities Law (Article 4 of Chapter 2 of Title 36, Code of Laws of South Carolina, 1962), then it appears Section 36-185 would grant such authority the necessary jurisdiction over areas of the county outside the jurisdiction of the municipal housing authority. See also Sections 36-120 and 36-121 as to territorial jurisdiction of municipal housing authorities.

Secondly, you ask whether the proposed county housing authority could Finance the purchase of properties through the use of the power of eminent domain by borrowing funds from a private corporation.

A survey of the provisions of the Housing Authorities Law convinces us that it is highly doubtful that such method of financing would be authorized. See Sections 36-183 and 36-125.

Thirdly, you ask whether properties acquired by the county housing authority could be sold to a private corporation.

Under the State Redevelopment Law (Chapter 4 of Title 36, 1962 Code), a county housing authority can carry out redevelopment projects and dispose of property for use by private enterprise. See Sections 36-404 and 36-408. The case of [Edens v. City of Columbia](#), 228 S.C. 563, 90 S.E. (2d) 280 (1955), held that private property could not be acquired by eminent domain for transfer under a redevelopment plan to private commercial and industrial enterprises, such being private uses under Article I, Section 17 of the State Constitution (the pertinent provision is now Article I, Section 13). However, Article XIV, Section 5 and 1971 Act No. 536 [57 Stat. 1022] would authorize a redevelopment scheme such as you suggest under certain conditions, and I refer you to those provisions, especially the 1971 Act.

There is no necessity for answering the fourth question because of our answer to the second one. However, for the interest to be tax exempt to the lender under State law, specific statutory exemption would have to be enacted. The interest would be income under the Federal law and therefore taxable.

Very truly yours,

Robert W. Brown
Assistant Attorney General

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