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The State of South Carolina  
**OFFICE OF THE ATTORNEY GENERAL**

CHARLIE CONDON  
ATTORNEY GENERAL

October 31, 2002

James S. Gibson, Jr. Esquire  
Post Office Box 40  
Beaufort, South Carolina 29901-0040

**Re: Ladies Island/St. Helena Fire District - Power of Condemnation**

Dear Mr. Gibson:

In a letter to this Office, you request an opinion on the following question:

Does the Ladies Island/St. Helena Fire District have the power of condemnation pursuant to the provisions of Section 6-11-130 even though this power is not specifically addressed in the Act creating this district?

By way of background, you included with your letter a copy of the Act which created the Ladies Island/St. Helena Fire District (Act No. 1727 of 1972) and you stated the following:

Section 6-11-10 et seq of the Code of Laws of South Carolina for 1976, as amended, provides for the establishment of Special Purpose or Public Service Districts. Section 6-11-130 provides that such districts shall have the power of condemnation.

When Ladies Island/St. Helena Fire District was created by Act No. 1727, a copy of which is enclosed, there was no mention under the powers and duties enumerated in Section 3 of the power of condemnation.

**LAW / ANALYSIS**

S.C. Code Ann. §6-11-10 *et. seq.* provides that unincorporated areas of counties may establish special purpose or public service districts upon petition and popular election. These special purpose/public service districts are governed by a board which the General Assembly has, through specific statutory provisions, granted certain powers. As you note, Section 6-11-130 provides that "[t]he boards of commissioners of the districts shall have power of condemnation."

The Ladies Island-St. Helena Fire District was created by the General Assembly with the passage of Act No. 1727 of 1972. The Act became effective upon the Governor's approval in March

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of 1972. Act 1727 creates the district, establishes a "board of fire control" to run the district, and sets forth the powers and duties of the board. The Ladies Island-St. Helena Fire District board of fire control is granted, among others, the power to purchase fire-fighting equipment, select sites for the storage of the equipment, select a fire chief and firemen, construct buildings to house the equipment, and to borrow money. The power of condemnation, however, is not specifically granted to the board of fire control through Act 1727.

The answer to your question, whether the Ladies Island-St. Helena Fire District board of fire control possesses the power of condemnation based on the general grant of such power by Section 6-11-130, I believe, is found in an uncodified Act of the General Assembly passed in 1981. Act No. 31 of 1981 was passed by the General Assembly and approved by the Governor on April 9, 1981. While not codified, the Act is published as an "Editor's Note" in Section 6-11-60. Act No 31 provides in part as follows:

Section 1. For the purposes of this Act, the term 'Special Purpose District' shall mean any district created by act of the General Assembly prior to March 7, 1973 and to which has been committed prior to March 7, 1973 any local governmental power or function.

...

Section 3. Such special purpose districts may exercise any and all powers, duties and responsibilities granted to such special purpose districts in any act or acts of the General Assembly relating to the creation and establishment of the particular special purpose district and may exercise any and all powers granted to special purpose districts by general law heretofore or hereafter enacted.

Given its date of creation and the governmental powers and functions granted to its board of fire control, it appears that Act No. 31 of 1981 is applicable to the Ladies Island-St. Helena Fire District. It further appears that Section 3 of Act No 31 grants to the district not only those powers enumerated in Act 1727, but also "all powers granted to special purpose districts by general law heretofore or hereafter enacted." Accordingly, it appears that the Ladies Island-St. Helena Fire District would possess the power of condemnation granted generally to such districts by Section 6-11-130. It must be noted that this conclusion is based on the continued viability of Act No. 31 of 1981. While no evidence has been found indicating amendment or repeal of the Act, a year-by-year analysis of the Acts and Joint Resolutions of the General Assembly has not been performed.

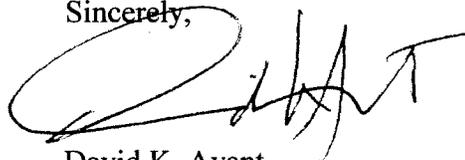
#### CONCLUSION

Provided that Act No. 31 of 1981 has not been amended or repealed, it is my opinion that the Ladies Island-St. Helena Fire District would possess the power of condemnation granted generally to such districts by Section 6-11-130.

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This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General and not officially published in the manner of a formal opinion.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Avant', written over a large, loopy initial 'D'.

David K. Avant  
Assistant Attorney General

DKA/an