



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
 ATTORNEY GENERAL

October 30, 1995

The Honorable Lucille S. Whipper
 Member, House of Representatives
 Post Office Box 268
 Mt. Pleasant, South Carolina 29465

RE: Informal Opinion

Dear Representative Whipper:

On September 28, 1995, an informal opinion was issued to you concerning various issues related to the problem of how an annexation to a municipality may proceed if sufficient numbers of property owners cannot be located to sign an annexation petition. In a subsequent telephone conversation, you asked that the problem of signatures relative to "heirs property" be addressed.

Property often referred to as "heirs property" is property which at one time was owned by one or more individuals who have since died but whose estates were not probated for whatever reason, whose heirs took the property. Perhaps some of those heirs have since died, as well, with the effect that the property then passed to their heirs. The net effect is that some parcels of property may have many owners, many of whom may be unknown. The extent of ownership (whether it is one-tenth or greater), so as to make an individual eligible to sign an annexation petition, in many instances is unknown.

The present state of the law relative to municipal annexation was stated in the earlier informal opinion. With respect to heirs property, the difficulty is in determining who the property owner is, so that one's eligibility to sign an annexation petition may then be determined. As this time, there is no alternative provided in the laws of this State, to deal with such a situation. One possible solution, depending on when a decedent died, might be to probate that individual's estate in Probate Court, to have the ownership of the property determined. Another possible solution would be to institute actions in the

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Court of Common Pleas to clear the titles to the parcels in question, to have determined the present owners of the parcels. Perhaps this is a matter which the General Assembly might wish to address by legislation.

This letter is an informal opinion only. It has been written by a designated Senior Assistant Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kindest regards, I am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Senior Assistant Attorney General