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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

December 10, 1997

Robert E. Guess, Esquire
Union County Attorney
109 W. South Street
Union, South Carolina 29379

RE: Informal Opinion

Dear Mr. Guess:

You have asked for this Office's opinion on the following question:

Can the Union County Council remove a member of the Board of Directors of the Union County Fair Association prior to the expiration of the term of such director?

You have informed this Office that the Union County Fair Association was created by the Union County Council. The enabling legislation is found in Section 2-251 et seq. of the Union County Code of Ordinances. The membership provisions of the Fair Association is found in Section 2-252. This section provides in pertinent part as follows:

The fair association shall be governed by a board of directors composed of nine (9) members. Each member of the Union County Council and the chairman of the Union County Council shall recommend appointments to the board of directors with actual appointments being made with a favorable vote of the majority of the members of the county council. Members of the board of directors shall serve four-year terms

The general law states that if an office is appointive and there is no set term, the officer can be removed at will. If the office has a set term, then there must exist good

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cause to remove the appointed officer. State v. Wannamaker, 213 S.C. 1, 48 S.E.2d 601 (1948); 63A Am.Jur.2d Public Officers and Employees §§ 221-222.

Since the enabling legislation sets forth a term of office for the members of the board of directors of the Fair Association, the removal of a member of the board must be for cause.

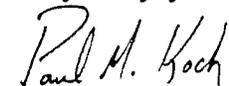
You have asked what specific cause or causes would be grounds for removal of a member of the board prior to the end of his term. I am not in a position to comment on whether a specific action of a board member would constitute cause for removal. However, you may want to review Article VI, Sections 8 and 9 of the South Carolina Constitution and Section 8-1-10 et seq. of the South Carolina Code of Laws for examples of what may constitute cause in a particular case.

Finally, you have asked whether a member of the Fair Association may be removed prior to the end of his term on the grounds that the member did not live in the single member election district of the County Council member who is entitled to make the appointment. Nothing in the ordinance provides that a member of the board must reside within the district of the council member that recommended his appointment and nothing in the ordinance provides that a member of the board may be removed if he does not reside within such district. Therefore, in my opinion, removal must be analyzed under the previously stated provision of law: If the office has a set term, then there must exist good cause to remove the appointed officer. State v. Wannamaker, supra; 63A Am.Jur.2d Public Officers and Employees §§ 221-222.

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 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 remain

Very truly yours,



Paul M. Koch

Assistant Attorney General