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November 14, 1988

Timothy E. Meacham, Esquire
City Attorney, City of Florence
City-County Complex, Drawer AA
Florence, South Carolina 29501-3456

Dear Mr. Meacham:

You have requested the advice of this Office concerning the ability of the Building Commission of the City and County of Florence (Building Commission) to incur indebtedness by enlarging the City-County Complex and to require the City of Florence, in part, to issue bonds to fund the project.

The Building Commission was created by Act 818 of the General Assembly in 1966. It was created to acquire a site, to construct and to maintain and operate a multi-story public facility for the City of Florence and Florence County. Section 4 of Act 818 grants a number of specific duties and powers to the Building Commission. Several of these provisions are of interest in considering your question. These are:

- (8) to accept gifts, grants, donations, devices and bequests; ...
- (11) to enlarge and improve any building that it may acquire or construct; ...
- (13) to expend the proceeds of any bonds issued by Florence County for the construction of the office building and for matters incidental thereto; ...
- (16) to apply to the Federal Government and any other governmental agency for a grant of money to aid in the construction and equipping of the office building; ...

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Accordingly, the Building Commission does have the authority to enlarge or improve the City-County Complex.

The ability and authority to finance any enlargement or improvement of the City-County Complex is another matter. Article X, Section Fourteen, of the South Carolina Constitution regulates bonded indebtedness of political subdivisions. Subsection (2) provides:

The political subdivisions of the State shall have the power to incur bonded indebtedness in such manner and upon such terms and conditions as the General Assembly shall prescribe by general law within the limitations set forth in this section and Section 12 of this Article

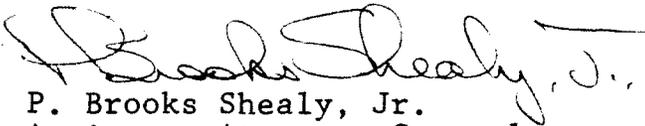
Municipal corporations such as the City of Florence are authorized to incur bonded indebtedness by Section 5-21-240, Code of Laws of South Carolina. Although the history of the original construction project is not entirely clear, 1966 Act 818, Section 1 does outline the findings of the General Assembly which indicates that a plan evolved under which the Building Commission would be established and general obligations of Florence County in an amount sufficient to construct the facility would be issued. There is no indication that financing of future enlargements or improvements was considered by the legislature. Neither is there any indication in Act 818 that the Building Commission has the authority to incur bonded indebtedness or require the City of Florence to incur indebtedness on its behalf. Other means of obtaining financing are allowed as can be seen in Section 4 (8) and (16) of 1966 Act 818. Assuming for the sake of argument that the Building Commission is a political subdivision as defined in Article X, Section Fourteen, Subsection (1), there is no term or condition in Section 4 of Act 818 which authorizes the Building Commission to incur any bonded indebtedness. When the language of a statute is clear and unambiguous it must be held to mean what it plainly says, Jones v. South Carolina State Highway Department, 247 S.C. 137, 146 S.E.2d 166 (1966). Consistent with your memorandum of September 13, 1988, submitted with the request for this opinion, the Building Commission is not authorized to require the City of Florence or any other political subdivision to incur bonded indebtedness for such a purpose.

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Additional authority from the General Assembly would be necessary to authorize issuing bonds by the Building Commission.

I hope this information will be helpful to you.

Sincerely,


P. Brooks Shealy, Jr.
Assistant Attorney General

PBSjr:bvc

REVIEWED AND APPROVED BY:



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