

THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. 86-116 p341 November 21, 1986

SUBJECT: Taxation and Revenue - Taxation Of
Property Situated In A Special Purpose
District.

- SYLLABI:
1. When property in the Old Fort Fire District is annexed into the town of Summerville, the district's authority to levy a tax on such property is superseded by the municipality.
 2. Property annexed into the town of Summerville should be valued for taxation by the county at its true value as of December 31 next preceding the relevant tax year.

TO: Honorable George H. Bailey
Member, House of Representatives

FROM: Ronald W. Urban *RWU*
Assistant Attorney General

QUESTIONS: 1. Does the Old Fort Fire District have the authority to tax property in its district when such property has subsequently been annexed by the town of Summerville?

2. Should the county value annexed property for tax purposes at its value as it existed at the time of annexation or should such property be valued at its actual value?

APPLICABLE LAW: Act 639, Acts of 1973, Act 825, Acts of 1976, Act 539, Acts of 1982, §§ 12-37-900 and 12-37-930, Code of Laws of South Carolina, 1976.

DISCUSSION - QUESTION 1:

Act 639, Acts of 1973 created the Old Fort Fire District for the purpose of providing fire protection in portions of Dorchester County. Subsequent legislation authorized the district to fund its services by levying a tax on the properties therein.

¹See Act 825, Acts of 1976 and Act 539, Acts of 1982.

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The town of Summerville has now annexed a part of the properties located within the boundaries of the fire district. The question posed is whether this annexed property² remains a part of the district for taxing purposes.

As a general rule, the establishment of a special purpose district does not prevent an adjacent city from later annexing a portion of the district. Tovey v. City of Charleston, 237 S.C. 475, 117 S.E.2d 872 (1961). Moreover, it has been held that when such property is annexed the powers and functions of the district in the annexed area are superseded by those of the city to the extent of any conflict between the two. Wagener v. Smith, 221 S.C. 438, 71 S.E.2d (1952).

In view of the foregoing, the Old Fort Fire District's authority to tax the property in question is superseded by the town of Summerville.³

CONCLUSION - QUESTION 1:

When property in the Old Fort Fire District is annexed into the town of Summerville, the district's authority to levy a tax on such property is superseded by the municipality.

DISCUSSION - QUESTION 2:

The second question asks whether annexed property should be valued for taxation by the county at its value as it existed at the time of annexation or whether such property should be valued at its current, actual value. This question alludes to the fact that certain areas which were wooded or residential at the time of annexation by the town of Summerville have now become commercial developments.

Section 12-37-930 states that all property must be valued for taxation at its true value. The statute goes on to define "true value" as follows:

² It is assumed that Summerville provides fire protection in the annexed areas.

³ The opinion herein expressed is not free of doubt. Legislation or a declaratory action to clarify the matter would be advisable.

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" . . . the price which the property would bring following reasonable exposure to the market, where both the seller and the buyer are willing, are not acting under compulsion, and are reasonably well informed as to the uses and purposes for which it is adapted and for which it is capable of being used.
. . . "

In accordance with § 12-37-900, the above defined value is to be determined as of the thirty-first day of December next preceding the relevant tax year. In other words, the county assessor would value the annexed property at its true value as of December 31, 1985 for the 1986 tax year.

CONCLUSION - QUESTION 2:

Property annexed into the town of Summerville should be valued for taxation by the county at its true value as of December 31 next preceding the relevant tax year.

RWU/jws