

MEMORANDUM 83

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Office of the Attorney General

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ATTORNEY GENERAL

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August 13, 1985

Mr. Robert D. Coble
Richland County Council
Post Office Box 192
Columbia, South Carolina 29202

Dear Mr. Coble:

In a letter to this Office you indicated that a law partner of a current Richland County assistant county attorney was elected to the Richland County Council. Referencing such election you have cited a provision of a Richland County ordinance which provides:

"(n)o member of the council or of the county legislative delegation, or any partner of any such member, shall be retained as county attorney or assistant county attorney, or perform any service for compensation as an attorney for the council, any county agency which is funded in whole or in part from county funds, or for any board, commission, committee, or agency of the county over which the council has any appointive powers. No member of any county board, commission, committee, or agency which is funded in whole or in part from county funds, or any board, commission, committee or agency of the county over which the council has any appointive powers, or any partner of any such member, shall be attorney or do any legal work for such board, commission, committee, or agency: provided, however, that, a partner of such member may serve as county attorney or as an assistant county attorney.

REQUEST LETTER

Continuation Sheet Number 2
To: Mr. Robert D. Coble
August 13, 1985

In light of such provisions you have raised the following questions:

1. May the attorney currently serving as an assistant county attorney continue to serve in that capacity when the partner has been elected to County Council?
2. In the event said attorney may continue to serve in the position as assistant county attorney, is it permissible for that assistant county attorney to issue legal opinions upon which the County Council would rely?
3. In the event it is impermissible for the assistant county attorney to continue to serve as an assistant county attorney, may the attorney do work for the County on a contract basis?

Generally, where terms of a statute or ordinance are clear and unambiguous, such terms must be given their literal meaning. Martin v. Ellisor, 266 S.C. 377, 223 S.E.2d 415 (1976); Mitchell v. Mitchell, 266 S.C. 196, 222 S.E.2d 499 (1976). Additionally, where the intention of a governing body is so apparent from the language of a statute or ordinance that there can be no question as to its meaning, there is no room for construction. Lewis v. Gaddy, 254 S.C. 66, 173 S.E.2d 376 (1970); Beach v. Livingston, 248 S.C. 135, 149 S.E.2d 328 (1966); 2 A Sutherland Statutory Construction, Sections 46.01 and 46.02 (4th Ed.).

Referencing the above and the clear language of the ordinance which as indicated provides that a partner of a member of the County Council may not be retained as an assistant county attorney, this Office would advise that the attorney currently serving as an assistant county attorney whose partner is elected to the County Council may not continue to so serve. It is our conclusion that the proviso which states that "... a partner of such member may serve as county attorney or as an assistant county attorney" is only applicable to situations involving a member of a county board, commission, committee, or agency as referenced in the ordinance. Inasmuch as the response to your first question is negative, a response to your second question appears to be unnecessary.

Continuation Sheet Number 3
To: Mr. Robert D. Coble
August 13, 1985

In your third question you asked whether such assistant county attorney could perform work on a contract basis. As set forth above, the ordinance states in part that "(n)o member of the council ... or any partner of any such member, shall ... perform any service for compensation as an attorney for the ... (county)... ." For the reasons set forth above, this Office concludes that the referenced assistant county attorney could not work for the county on a contract basis.

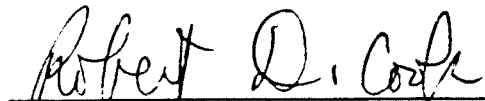
If there is anything further, please advise.

Sincerely,


Charles H. Richardson
Assistant Attorney General

CHR:djg

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions