

1984 S.C. Op. Atty. Gen. 264 (S.C.A.G.), 1984 S.C. Op. Atty. Gen. No. 84-113, 1984 WL 159920

Office of the Attorney General

State of South Carolina

Opinion No. 84-113

September 11, 1984

*1 Richard S. Campbell, P.E.

State Fire Marshal

800 Dutch Square Blvd., Suite 201

Columbia, South Carolina 29210

Dear Mr. Campbell:

You have presented the following question to our office for an opinion: Does the State Fire Marshal's Appeal Panel have the authority to vary State Statute 31-17-20 and allow a day care center to operate in a manufactured home (mobile home)?¹ Your request for an opinion seems to express the following question: Does the definition of 'manufactured home' or 'mobile home' found in S.C. Code Section 31-17-20(a) (1983, as amended) preclude using a mobile home as a day care center?

For the reasons set out hereinafter it is our opinion that the definition of 'manufactured home' or 'mobile home' found in S.C. Code Section 31-17-20(a) (1983, as amended) does not preclude using a mobile home as a day care center.² S.C. Code Section 31-17-20(a) states:

'Manufactured home' or 'mobile home' means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width, or forty body feet or more in length, or when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under this title. (emphasis added).

In order to argue that a mobile home could not be used as a day care center, one would have to seize upon that portion of the above-quoted language which states that a mobile home is 'designed to be used as a dwelling.' This language does not require that a mobile home be used as a dwelling but merely is descriptive of the design purpose to which a mobile home is often placed. No language in this section precludes the use of a mobile home as a day care center.

The cardinal rule of statutory interpretation is to ascertain and effectuate the legislative intent whenever possible. [Merchants Mut. Ins. Co. v. South Carolina Second Injury Fund](#), 277 S.C. 604, 291 S.E.2d 667 (1982); [Bankers Trust of South Carolina v. Bruce](#), 275 S.C. 35, 267 S.E.2d 424 (1980). Section 31-17-20 is the definitional section of The Uniform Standards Code for Manufactured Housing Act. Nothing in the article evidences any legislative intent to speak to the regulation of day care centers. In fact, The South Carolina Children's Code, specifically Subarticle 11 found in [S.C. Code Section 20-7-2700](#) through [20-7-3090](#) (1983 as amended), regulates child day care facilities.

The definition of a 'group day care home' is found in [S.C. Code Section 20-7-2700\(f\)](#) which states:

*2 'Group day care home' means any facility generally within a dwelling unit, which regularly provides child day care for at least seven but not more than twelve children, unattended by a parent or a legal guardian, including those children living in the home and children received for day care who are related to the resident caregiver. Provided, however, that an occupied residence

in which child day care is regularly provided only for a child or children related to resident caregiver, or only for the child or children of one unrelated family, or only for a combination of such children is not a group day care home. (emphasis added).

As is evident from the definition of group day care home the facility is envisioned as being within a dwelling unit. To suggest that one should preclude mobile homes as candidates for group day care homes merely because the definition of mobile home indicates that they are 'designed to be used as a dwelling' flies in the face of the specific definitional language relating to group day care home.

It is our opinion that the definition of 'manufactured home' or 'mobile home' found in S.C. Code Section 31-17-20(a) (1983, as amended) does not, standing alone, preclude using a mobile home as a day care center.

Very truly yours,

Charles W. Gambrell, Jr.
Assistant Attorney General

Footnotes

- 1 The Fire Marshal Appeal Panel is an advisory panel created by Budget and Control Board [Regulation 19-312](#). The Panel does not have the authority to vary the regulations relating to the State Fire Marshal. The Panel holds hearings to consider appeals from those aggrieved by a decision of the State Fire Marshal. The Panel reports its findings and recommendations to the Budget and Control Board. The Budget and Control Board may vary the application of any provision of the rules and regulation to any particular case. Clearly an advisory or administrative body does not have the authority to supersede valid statutory law. [Lee v. Michigan Mut. Ins. Co.](#), 250 S.C. 462, 158 S.E.2d 774 (1968); [S.C. Tax Com'n v. S.C. Tax Board of Review](#), 278 S.C. 556, 299 S.E.2d 489 (1983).
- 2 We express no opinion as to whether or not other laws or regulations, under more specifically enumerated facts and circumstances, would preclude the use of a mobile home as a day care center.
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