

1977 S.C. Op. Atty. Gen. 307 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-383, 1977 WL 24720

Office of the Attorney General

State of South Carolina

Opinion No. 77-383

December 5, 1977

***1 Re: Greenview Petitioning for Annexation Vote**

The Honorable Kay Patterson
Member
House of Representatives
Richland County
6815 Gavilan Avenue
Columbia, South Carolina 29203

Dear Kay:

Thank you for your letter of 1 December 1977, concerning the petition for annexation which was filed in 1975 but never acted upon by the City, according to information furnished me.

In answer to your question as to whether it is incumbent upon the City to act upon the annexation petition, I must advise that the statute pertaining to annexation to municipalities makes it optional with the City to act upon the election or not. The present statute reads as follows:

'If the city or then council shall find that the petition—has been signed by a majority of the freeholders within the territory proposed to be annexed, it may certify that fact to the County Commissioners of Election of the county in which the territory is situated. Such territory shall not be annexed until such certification is made by the city or town council—.' (Emphasis added.)

Prior to 1966, the same statute provided that the town council 'shall certify,' but in 1966 the General Assembly changed the law to make the annexation optional with the city. The title to the 1966 Act (No. 865) recites its purpose as being: '—to provide that the holding of an election regarding such annexation shall be optional with the city council of the municipality.'

In these circumstances, there is no alternative except to follow the legislative mandate that the city have the discretion to order an election or not to order an election.

It is my opinion, therefore, that the matter of ordering or not ordering an election on either of the petitions submitted is entirely optional with the city. There may be some facts with which I am not aware, but if these come to my attention, I will be pleased to consider them.

With best wishes,
Cordially,

Daniel R. McLeod
Attorney General

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