

1976 WL 30656 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 10, 1976

*1 H. Fulton Ross, Jr., Esquire
Sarratt and Ross
Post Office Box 818
Gaffney, SC 29340

Dear Mr. Ross:

You have inquired as to whether the City of Gaffney is precluded from using certain federal funds it has acquired to repair or improve certain structures within Gaffney in a situation where the statutory method found in the South Carolina Code of Laws, Section 36-501 through 36-511 would be applicable.

The funds obtained by the City of Gaffney were made available by the provisions of Title I of the Housing and Community Development Act of 1974. Title I of that Act provides that these funds are to be used for, among other things: (1) the acquisition of real property; (2) acquisition, construction, reconstruction, or installation of public works, facilities, and site or other improvements; (3) code enforcement; (4) clearance and rehabilitation of buildings and improvements; (5) payment of the non-federal share required in connection with a federal grant-in-aid program undertaken as part of the Community Development Program; (6) payment of the cost of completing an urban renewal project; (7) the elimination of slums and blight; and (8) the elimination of conditions detrimental to health, safety and public welfare.

Communities receiving funds under Title I of the 1974 Act must establish their own community development priorities and these community development activities are not limited by the Act to renewal or low income areas but may be undertaken anywhere a community perceives problems worthy of attack. While communities have wide discretion in the use of these funds, their activities must be directed toward the primary objective of Title I which is 'the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities principally for persons of low and moderate income' 42 U.S.C.A. Section 5301(c) (1974).

Sections 36-501 through 36-511, Code of laws of South Carolina, 1962, as amended, provide municipalities a statutory means of repairing uninhabitable structures and charging the costs of such repairs against the property so improved.

In the event that repairs are made to a structure by the City of Gaffney to which Sections 36-501 et seq. would be applicable, it is my opinion that the availability of this statutory remedy does not preclude the use of Title I funds by Gaffney to cover the costs of those repairs. I base this conclusion on the language of Sections 36-501 et seq. which indicates that the statutory remedy is not intended to be the exclusive method of repairing uninhabitable structures and the language of Act 104 of 1975 of the General Assembly of South Carolina which authorizes counties and municipalities of this State to apply for, obtain, and use the funds made available by Title I of the Housing and Community Development Act of 1974. Although these two methods of repairing structures are mutually exclusive, it is my opinion that the availability of the one does not preclude the use of the other.

*2 It is important to note, however, that in making use of Title I funds instead of the statutory remedy, the City of Gaffney should be careful to administer its program of community development in compliance with: (1) Title VI of the Civil Rights Act of 1964, which makes discrimination in federal programs and federally assisted activities illegal, and Title VIII of the Civil Rights Act of 1968, the fair housing law, which makes illegal the refusal to sell, rent or finance housing because of a person's race, color, religion or national origin; (2) the Act's own nondiscrimination provisions, which extend coverage of the earlier acts to discrimination based upon sex; (3) Section 3 of the Housing and Urban Development Act of 1968 pertaining to training

and employment opportunities for lower-income persons; (4) Executive Orders 11063 and 11246, relating to equal opportunity in employment in federally assisted projects; (5) relocation and acquisition requirements of Title II and III of the Uniform Relocation and Real Property Acquisition Policies Act of 1970; (6) labor standards requirements of the Davis-Bacon Act ([40 U.S.C. Section 276a](#)); (7) the National Environmental Policy Act of 1969.

Further, I hope this opinion is satisfactory from your point of view. If you have any questions, please call me.

Sincerely,

Kenneth L. Childs
Staff Attorney

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