

1979 S.C. Op. Atty. Gen. 103 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-78, 1979 WL 29083

Office of the Attorney General

State of South Carolina

Opinion No. 79-78

June 11, 1979

***1 SUBJECT: Property Tax—Residential Classification of Undivided Interests.**

Where a person devises a twelve-acre tract in three-acre parcels to four persons and the boundaries of the three-acre tracts are not established, the three-acre parcels do not satisfy the ownership and occupancy requirements for a residential classification.

TO: W. Jerry Fedder, Esquire
Oconee County Attorney

QUESTION:

By will a person devises three acres of land separately to his surviving spouse and to each of three children. The separate parcels are part of a twelve-acre tract. There has been no division of the larger parcel and identification of the smaller parcels by boundary is unknown. Can the residential classification be granted?

APPLICABLE LAW:

[§ 12-43-220\(c\) of the 1976 Code](#) of Laws.

DISCUSSION:

A requirement for the residential classification is that the legal residence be:

‘* * * owned totally or in part in fee or by life estate and occupied by the owner of such interest * * *.’

Here each of the four persons own a three-acre parcel and do not own any interest in the remaining nine acres. Unless and until the parcels are identified by boundary, the conditions of the statute above-quoted cannot be satisfied. It is necessary that the residence be both owned and occupied and such is not known under the facts stated.

CONCLUSION:

Where a person devises a twelve-acre tract in three-acre parcels to four persons and the boundaries of the three-acre tracts are not established, the three-acre parcels do not satisfy the ownership and occupancy requirements for a residential classification.

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Deputy Attorney General

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