

1979 WL 43084 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 26, 1979

*1 Mr. Dick Elliott
Vice-Chairman
Horry County Council
Post Office Box 3267
North Myrtle Beach, South Carolina 29582

Dear Mr. Elliott:

You have requested an opinion from this Office as to the validity of acts taken by the 1979 Horry County Council in light of the recent decision of the South Carolina Supreme Court invalidating the election of its members. In my opinion, the actions taken by the 1979 Council are valid as hereinbelow discussed.

The members of the 1979 Council, elected pursuant to acts of the General Assembly, are properly classifiable as de facto officers. A de facto officer is one who is 'in possession of an office in good faith, entered by right, claiming to be entitled thereto, and discharging (his) duty under color of authority.' [Heyward v. Long, 178 S.C. 351, 183 S.E. 145 \(1935\)](#). Due to the public's need to act in reliance upon a public official's acts, they are as valid and effectual as though he were an officer de jure, until such time as his title is judged insufficient. See, [State, ex rel. McLeod v. Court of Probate of Colleton County, 266 S.C. 279, 223 S.E.2d 166 \(1976\)](#).

With kind regards,

Keren LeCraft Henderson
Senior Assistant Attorney General

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