

1979 WL 43226 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 31, 1979

*1 Mr. T. E. Wannamaker
196 Elliott Street
Orangeburg, South Carolina 29115

Dear Mr. Wannamaker:

You have recently requested the opinion of this Office concerning the compensation that a freeholder may receive when serving as a member of a condemnation panel. In particular, you have inquired as to whether such a freeholder may receive compensation from either party without affecting the validity of the proceeding itself.

The procedure for condemnations by municipalities is set forth in the statutes. Section 28-9-10, *et seq.*, 1976 Code of Laws of South Carolina. Specifically, Section 28-9-20 of the Code sets forth the selection and duties of freeholders, in condemnation proceedings. However, this statute makes no provision for the compensation of such freeholders. This is in contrast with the statutes governing condemnations by the South Carolina Department of Highways and Public Transportation, which establishes compensation by the Department for the members of the Condemnation Boards. Section 57-5-420, 1976 Code of Laws of South Carolina.

In order for a State official or employee to receive compensation for his duties, the remuneration must come from the State or the appropriate political subdivision thereof. [Section 8-15-10 of the Code](#) provides that the compensation of all officers and employees of the State or any political subdivision, department, or agency thereof shall be determined by the General Assembly or the particular political subdivision, department, or agency at issue. Furthermore, [Section 8-13-430 of the Code](#) prohibits the offering to or receipt by a public official or employee of any additional compensation for services rendered by the public official or employee in his official capacity. Therefore, it would be inappropriate for a landowner to offer a freeholder compensation for services rendered as a member of a condemnation panel.

The only question remaining is whether a freeholder may receive compensation for his services from the municipality itself. Naturally, if the municipality had a specific ordinance in regard to such compensation, it would control. However, assuming that the municipality had no such ordinance, it appears that the freeholder would not be entitled to any compensation. The general law on this question appears to be as follows:

As respects compensation, a public office is taken cum onere. Since there is no constitutional right to receive compensation in any amount for public service, and public officers have no claim for official services rendered except where, and to the extent that, compensation is provided by law. [sic] The duties of a public officer may be exacted without specific compensation, and, when no compensation is provided, the rendition of services is deemed to be gratuitous.

67 C.J.S., *Officers*, Section 219; [Ridgill v. Clarendon County, et al.](#), 188 S.C. 460, 199 S.E. 483 (1938); 1963 Op Att'y Gen., No. 1529, p. 94. Since no compensation is provided by statute for a freeholder's services on a condemnation panel, a freeholder would not be entitled to compensation unless it was provided by a local municipal ordinance.

*2 It is therefore the opinion of this Office that, absent any local ordinance on this subject, a freeholder may not receive compensation from either a landowner or the appropriate municipal authority for services rendered in regard to a condemnation proceeding.

Sincerely,

Keith M. Babcock
Assistant Attorney General

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