

1979 WL 43621 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 26, 1979

*1 Mr. J. E. Guerry, Jr.
Executive Director
Patriots Point Development Authority
P. O. Box 986
Mt. Pleasant, South Carolina 29464

Dear Mr. Guerry:

This will confirm our recent conversations concerning the payment of fees, costs and broker's and finder's commissions on lease contracts which may be entered into by Patriots Point Development Authority with various lessees of property or concessions at Patriots Point.

In brief, in absence of statutory authority, or a formally bid contract which specifically provides for such, and approved by the State Budget and Control Board, the Authority may not pay fees, costs or commissions incurred by the lessee in obtaining, negotiating and executing a lease with the Authority. This would include legal fees, realtor's commissions, license fees and other expenses incurred by the lessee in bidding, negotiating, obtaining and executing such leases.

Therefore, each lease contract entered into by the Authority as lessor should contain a provision that:
All costs incurred for submission of bids by lessee, for negotiating the terms of this lease and associated agreements, for obtaining the final lease and executing same and for obtaining licenses and approvals required by the lessee, including, but not limited to, license fees, fees or commissions to be paid to attorneys or to real estate agents or to contract brokers shall be the liability and obligation of the lessee.

If you have further questions, do not hesitate to call.

Sincerely,

Frank K. Sloan
Deputy Attorney General

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