

1976 S.C. Op. Atty. Gen. 374 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4513, 1976 WL 23130

Office of the Attorney General

State of South Carolina

Opinion No. 4513

November 4, 1976

\*1 The Clark's Hill Authority does not have the power to dispose of lands within the Clark's Hill Project Area.

TO: O. Lee Sturkey

QUESTION INVOLVED:

Whether the Clark's Hill Authority has the power to dispose of land within its project area.

CITATION OF AUTHORITIES:

Sections 59–91 et seq., Code of Laws of South Carolina (1962), as amended;

Section 1–793, Code of Laws of South Carolina, (1962), as amended;

[Creech v. S. C. Public Service Authority, 200 S. C. 127, 20 S. E. 2d 645 \(1942\).](#)

DISCUSSION:

The powers and duties of the Clark's Hill Authority are provided in Section 59–93 of the Code. In Subsection (4), the Authority is granted the power to receive and hold title to any land within the Clark's Hill project area which has been released as surplus or leased by the U. S. Army Corps of Engineers. The Authority is not granted the power to purchase or to dispose of land, although it has the power to lease surplus lands to public or private organizations in order to develop or promote recreational, residential, and industrial uses. The Clark's Hill Authority is a public corporation exercising certain governmental functions as an agency of the State. It can exercise only those powers granted in express word or those necessarily or fairly implied in or incidental to the powers expressly granted, or those essential to the declared objects and purposes of the corporation, which powers are not simply convenient, but indispensable. In construing the powers granted to the Clark's Hill Authority, it is likewise well settled that such grants of power by the Legislature are to be strictly construed. [Creech v. S. C. Public Service Authority, 200 S. C. 127, 20 S. E. 2d 645 \(1942\)](#). The specification of certain powers operates as a limitation on such objects only as are embodied therein and is an implied prohibition of the exercise of other and distinct powers. Id. While expressly granting to the Clark's Hill Authority the power to lease lands it holds title to, the Legislature has omitted granting the power to dispose of such land, thus impliedly demonstrating its intention that Authority does not have such a power. If the Legislature had intended to grant the power to dispose of land, it could have easily provided for this power in the Act.

CONCLUSION:

The Clark's Hill Authority does not have the expressed or implied authority to dispose of land which it has received and holds title to pursuant to Section 59–93(4).

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