

1975 S.C. Op. Atty. Gen. 196 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4124, 1975 WL 22420

Office of the Attorney General

State of South Carolina

Opinion No. 4124

September 22, 1975

*1 The Richland County Recreation Commission does not have the statutory authority to sell land.

TO: Superintendent of Recreation for Pichland County

QUESTION INVOLVED:

Does the Richland County Recreation Commission have the authority to sell land which it owns that it no longer needs?

STATUTES, CASES, ETC. INVOLVED:

Sections 51–395 et seq., CODE OF LAWS OF SOUTH CAROLINA (1962) (as amended); [202 SC 207, 24 SE2d 353 \(1943\)](#); 81 C.J.S. States

DISCUSSION:

A basic premise of administrative law is that administrative agencies are only given such powers as are specifically provided by legislation. See: [Piedmont and Northern Railway Company vs. Scott, 202 SC 207, 24 SE2d 353 \(1943\)](#). Generally speaking, state officers boards, commissions, and departments have such powers as may have been delegated to them by express constitutional and statutory provisions, or as may properly be implied from the nature of the particular duties imposed on them. This power cannot be varied or enlarged by usage or by administrative construction. Executive and administrative officers, boards, departments, and commissions have no powers beyond those granted by express provision or necessary implication. 81 C.J.S. States Section 58 at 977–8.

A study of the powers and duties which the Legislature has delegated to the Richland County Recreation Commission reveals that the Commission has not been granted the authority to sell land. Furthermore, the authority to sell land is not necessarily implied from the other authorities granted to the Commission. Therefore, this Office is of the opinion that the Richland County Recreation Commission does not have the authority to sell land absent the express statutory grant of such authority.

However, there is nothing to prevent the Commission from going to the legislature and getting the legislature to adopt general legislation granting such powers to recreation districts throughout the State.

M. Elizabeth Crum

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