

1975 S.C. Op. Atty. Gen. 246 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4195, 1975 WL 22492

Office of the Attorney General

State of South Carolina

Opinion No. 4195

November 21, 1975

*1 Mr. M. A. Gunter, Jr.
Building Official
City of Union
Union, South Carolina

Dear Mr. Gunter:

You have requested an opinion from this office as to whether or not Section 47–34 of Act No. 283 of 1975, the ‘home rule’ legislation, grants to all municipalities the power of eminent domain in the acquisition of property for slum clearance and subsequent sale for private use.

Section 47–34 provides in part as follows:

. . . any incorporated municipality, . . . , may undertake and carry out slum clearance and redevelopment work in areas which are predominantly slum or blighted, the preparation of such areas for reuse, and the sale or other disposition of such areas to private enterprise or to public bodies for public uses . . . [Emphasis added.]

In my opinion, the above-quoted language of Section 47–34 can be constitutionally construed as granting the power to condemn for slum clearance and subsequent sale for private use only to those municipalities which possessed such power by virtue of an amendment to former Article I, Section 17, now Article XIV, Section 5, of the State Constitution. See, e.g., 55 STAT. Act No. 17 at 20 (1967) granting municipalities and housing and redevelopment authorities of Spartanburg County such authority. Otherwise, Article I, Section 13 of the Constitution specifically prohibits the taking of private property for private use [see, e.g., Boyd v. Winnsboro Granite Co., 66 S.C. 144, 116 S.E.2d 13 (1960)] and Article VIII, the Local Government Amendment, has not, in my view, impliedly repealed the prohibition expressed in Article I, Section 13.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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