

1975 WL 29342 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 30, 1975

*1 The Honorable James B. Edwards
Office of the Governor
Columbia, South Carolina 29211

Dear Governor Edwards:

You have inquired as to whether the State of South Carolina is immune from local zoning regulations. This inquiry originated as a result of the operation of a runaway house by the South Carolina Department of Youth Services in an area of Charleston that is zoned single family residence.

As a general rule, the State is exempt from zoning regulations of a municipality unless the State is made subject to such regulations by specific statutory enactment. The immunity of the sovereign from suit would generally bar the application and enforcement of municipal [zoning regulations to governmental projects or activities](#). See [Annot. 61 A.L.R.2d 970](#). In reviewing the law of this State in regard to zoning, there appears to be neither any statute making the State subject to Charleston zoning regulations nor any waiver of the immunity of the State from suit that would allow the enforcement of these zoning regulations against the State or an agency of the State.

The Supreme Court of South Carolina squarely faced the issue of the applicability of municipal zoning regulations to the State in [Law v. Spartanburg](#), 146 S.E. 12, 148 S.C. 229 (1928). There the Court said:

‘That which the State authorizes, directs, requires, licenses, or expressly permits, a municipality is powerless to prohibit.’

In [Law](#) the Court faced the issue of whether the State could construct and operate a tubercular hospital within the city limits of Spartanburg when the construction and operation of such a hospital was forbidden by city ordinance. The Court rejected efforts of the city to block construction and operation of the hospital and enjoined enforcement by the city of its ordinance.

The Department of Youth Services is charged with various responsibilities and duties in § 55-50 § 550-50 [et seq.](#) of CODE OF LAWS OF SOUTH CAROLINA. Included among these responsibilities and duties is the creation of a Youth Bureau Division within the Department which, in turn, is vested by § 55-50.4 with the following responsibilities:

‘The Youth Bureau Division shall in coordination with other State and local government agencies and the Courts develop plans and facilities as may be necessary to implement an effective program of youth delinquency prevention throughout the State.’

Thus, on the basis of the authority cited herein, it is the opinion of this Office that as the Department of Youth Services, an agency of the State, has been expressly authorized by the General Assembly to develop facilities for an effective program of youth delinquency prevention throughout the State, a runaway house being such a facility, the Department is immune to municipal zoning regulations and can operate a runaway house in an area zoned single family residence.

Sincerely,

W. Joseph Isaacs

Staff Attorney

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