

1974 WL 27569 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 2, 1974

\*1 It would be necessary to show discrimination before an action of the County Council of Lee County that required new houses to be assessed and taxed at 5% of value would be invalid for lack of uniformity and equality.

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County Attorney  
Lee County  
Stuckey Building  
Bishopville, South Carolina 29010

Dear Mr. Stuckey:

Your letter of December 27, 1973, to Mr. McLeod has been handed this writer for attention and reply. You request the opinion of this office of the validity of an action of the County Council for Lee County of September 8, 1971, that directed that new houses be assessed at 5% of fair market value.

The Council was created by Act No. 1363, Acts of 1968, and among its enumerated powers is one 'to provide for a uniform system of ad valorem property tax assessments throughout the County.'

Section 7 of the Act further provides for the adoption of ordinances, resolutions, codes and policies and it is assumed that the requirements of this Section were met when the action of September 8, 1971 was taken. The action would therefore have the presumption of validity and before it could be declared invalid it would be necessary to show that there was discrimination within the class of property taxed, new homes as opposed to existing homes.

The Constitution, in Article 10, Section 1, and Article 10, Section 5, requires that all property be assessed and taxed uniformly and equally and our Court has construed this to mean uniformly and equally within the class. [Newberry Mills, Inc. v. Dawkins, et al.](#), 259 S. C. 7, 190 S. E. (2d) 503.

It would therefore be necessary to establish that there was discrimination throughout the County against new houses as opposed to existing houses before the September action would be invalid.

A related question is to be argued before the Supreme Court on January 16, 1974, and the decision rendered will be helpful on the question presented. The case is that of [Holzwasser v. Brady](#) and the issue is whether the real property leased to a manufacturer can be taxed at a greater percentage of fair market value than the real property of others.

Yours very truly,

Joe L. Allen, Jr.  
Assistant Attorney General

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