

1974 WL 27549 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 18, 1974

***1 Re: No. 208—Municipal**

Mr. Dale T. Cobb, Jr.
Assistant City Attorney
City of Greenville
P. O. Box 2207
Greenville, South Carolina

Dear Mr. Cobb:

In your letter dated December 3, 1974, you requested that we advise you as to whether or not the City of Greenville may make loans or grants of 'federal funds' to private citizens for the renovation of private homes. Thereafter, we requested additional information from you with regard to that issue; however, as of this date we have not received it.

On May 7, 1968, the General Assembly ratified a proposed amendment to Article I, Section 17 of the Constitution of South Carolina so as to provide, inter alis, for slum clearance and redevelopment by incorporated municipalities in Greenville County. See, 55 STAT. Act. No. 1537 at 3545 (1968). The qualified electors in the General Election conducted in 1968 approved the proposed amendment and on May 6, 1969, it was ratified by the General Assembly. See, 56 STAT. Act No. 180 at 195 (1969). That amendment, which strangely appears in the supplement to the Constitution as an amendment to Article XIV, Section 5 [see, S.C. CONST. art. XIV, § 5 (Cumulative Supplement)], provides in part:

[T]he General Assembly may provide by law that any incorporated municipality in Greenville County . . . may undertake and carry out slum clearance and redevelopment work in areas public and private . . . and may prepare such areas for re-use, and may sell, base, mortgage or otherwise dispose of such areas . . . to private enterprise for private use or to public bodies for public use . . .

The General Assembly, on July 29, 1969, enacted a statute which implements the aforementioned amendment. See, 56 STAT. Act No. 516 § 1 at 879 (1969). By that statute, the governing body of any municipality in Greenville County is authorized to create by ordinance a public body corporate and politic to be known as the 'Redevelopment Authority' of that municipality. Id. § 3 at 879. Among the powers and duties of any such redevelopment authority is the following:

Each authority shall have all of the authority provided for in Chapters 2, 3 and 4 of Title 36 of the 1962 Code. . . . Id. § 4(4) at 882.

Section 36-126 of the Code, which is in Chapter 2 of Title 36, confers on municipal housing authorities specific powers relating to projects, planning, and other matters. Subsection (8) authorizes a housing authority

[t]o lend money to private individuals, firms, corporations or governments, to be used for the purpose of making repairs, improvements and additions to the borrowers' properties . . .

By Section 36-151, which also is contained in Chapter 2 of Title 36, an authority is authorized to apply for, receive and expand any funds loaned, granted or otherwise made available to it by any agency of the United States Government. See also, CODE OF LAWS OF SOUTH CAROLINA § 36-411 (1962). It would appear, therefore, that any redevelopment authority treated by

ordinance of the City of Greenville pursuant to Act No. 516 of 1969 would have the power to make loans of federal funds received by it to private citizens for the renovation of private homes.

*2 As to whether or not any such redevelopment authority would possess the authority to make grants of federal funds for the same purpose, our research does not reveal any statute expressly conferring that power upon any redevelopment authority. Indeed, none has been called to our attention by you. Absent a statute authorizing a redevelopment authority created by municipal ordinance pursuant to the 1969 Act to make grant of federal funds to private homeowners for the purpose of renovating their homes, such an authority would not possess that power.

Whether the use of public funds to assist private homeowners is a public use is currently being litigated in an action involving the recently enacted South Carolina State Housing Authority Act of 1974 [58 STAT. Act No. 1171 at 2693 (1974)]. See, Casey v. South Carolina State Housing Authority, filed August 20, 1974. Our position in that action is that such a use is constitutional.

Kind regards,

C. Tolbert Goolsby, Jr.

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