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Subject: One SC Fund PSA

Attachments: Municipal Grants to Non-Profit Organizations.doc

Hi Holly,

I am happy to share this brief examination with you and get your opinion. The attached article gives a more in depth discussion, but a quick summary is below.

The predominant rule is that public funds must be used for a public purpose. This general principle was examined in two SC cases (Nichols v. South Carolina Research Authority, 290 SC 415, 351 S.E.2d 155 (1986) and WDW Properties v. City of Sumter, 342 SC 6, 535 S.E.2d631 (2000) where a four-part test was created and used to determine if public policy was violated. This test can be applied to determine if donations by a government agency are for a public purpose :

- (1) What is the intended ultimate goal or benefit to the public?
- (2) Are public parties or private parties the primary beneficiaries?
- (3) Is the benefit to the public speculative?
- (4) What is the probability that the public interest will be ultimately served and to what degree?

Also helpful is the definition of "public purpose" given by the SC Supreme Court in Andrew v. Bauer, 265 SC 153, 217 S.E.2d43, 47-48 (1975), as one which

has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity, and contentment of all the inhabitants or residents, or at least a substantial part thereof. Legislation *does not* have to benefit all the people in order to serve a public purpose. At the same time legislation is not for a private purpose merely because some individual makes a profit as a result of the enactment....

....Many objects may be public or beneficial in the general sense that their attainment will benefit or promote the public convenience. It is not sufficient that an undertaking bring about a remote or indirect public benefit to categorize it as a project within the sphere of "public purpose".

When the test is applied to PRT providing funds to the Central Carolina Community Foundation/ One SC Fund for the purpose of creating a PSA, there is a high probability that public interest will be served by increased donations. Because 100% of the funds raised will directly benefit non-profits in flood affected areas, I would argue that all residents of the State are served as public areas are cleaned up and refurbished, infrastructure is strengthened and less stress is put on other community resources normally providing assistance.

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