



P.O. Box 21136
Charleston, S.C. 29413
843-881-6666
www.charlestoncountybar.com

January 19, 2022

VIA EMAIL ONLY

Teddie E. Pryor, Sr.
2700 Crestline Drive
North Charleston, SC 29405
tpryor@charlestoncounty.org

Dear Chairman Pryor:

On behalf of the Executive Committee of the Charleston County Bar Association, I write to request that County Council take up and consider whether the Register of Deeds position should, for future holders, remain elected or should be converted to that of a County Council or County Administrator appointed position. In light of the events of the last two years, the difficulties the current Register of Deeds has experienced, and the lack of oversight over that position, we believe now is the appropriate time for the County to address how that position should be filled in the future.

The next scheduled election is November 2022, and if the position remains elected, the winner of that election will be responsible for the administration of the register of deeds office for another four (4) years. The timely recording of real property transfers, mortgages, powers of attorney, and other documents is critical to the ability of Charleston County residents and lawyers to be able to conduct real estate related business. And, of particular import to Council, the timely processing of recordings and the fees related thereto serve as a significant source of revenue for the County.

Our legal research supports the conclusion, that with respect to the Register of Deeds, in particular, the Council has the authority to determine whether the position is appointed or elected. While some may perceive this as a political office, we do not. Policy, party affiliation or political considerations should have no role in the performance of the necessary duties of the office.

The following other South Carolina counties already appoint their Register of Deeds if the population warrants a separate office:

Anderson	Sumter
Beaufort	Kershaw
Cherokee	Lancaster
Chesterfield	Oconee
Clarendon	Orangeburg
Colleton	Pickens

Georgetown
Horry
Jasper

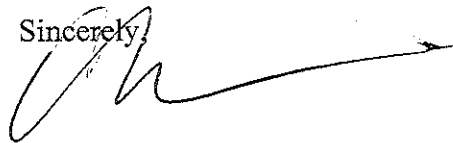
Richland
Spartanburg
Sumter

Despite what some may presume based on past practice, there is neither S.C. Code nor S.C. Constitution provision mandating the position in Charleston County be elected. S.C. Code of Laws section 30-5-12 addresses the register of deeds only with respect to a list of counties that are required to appoint their register of deeds. This statute does not prohibit any other county from deciding to make the position appointed. S.C. Code of Laws section 7-13-20 provides for the time of the general election of "county supervisors, county superintendents of education, sheriffs, coroners and clerks of the courts of common pleas." The register of deeds is not included in this provision. Lastly, Article V, Section 24 of the South Carolina Constitution only requires that the "clerk of the circuit court, a sheriff, and a coroner; and in each judicial circuit a solicitor" be elected to four (4) year terms.

In this instance, the General Assembly has left the decision of how best to manage the register of deeds office to County Council, as long as the holder of the position follows the laws regarding recording and indexing of certain documents. Importantly, South Carolina is what is known as a "race-notice" state in which the recording statute determines the priority of liens by the date (day, hour, and minute) of recording. See S.C. Code Ann. § 30-7-10 to 30-7-100 (Recordation Essential to Validity); S.C. Code Ann. §§ 30-7-10 to 30-5-270 (codifying South Carolina's Recording Act); Regions Bank v. Wingard Props., Inc., 715 S.E.2d 348, 355 (S.C. Ct. App. 2011) ("The recording statute found in section 30-7-10 . . . provides that all mortgages are valid, without notice, from the day they are recorded in the register of deeds for the county where the real property is located."); Leasing Enters., Inc. v. Livingston, 363 S.E.2d 410, 412 (S.C. Ct. App. 1987) ("Our reading of the current statute indicates the recording act is a race-notice act which will provide protection to the subsequent purchaser or creditor provided he records first."); S.C. Code Ann. § 30-9-10 to 30-9-80 (Indexing and Filing of Public Records). Timely recording and indexing are essential to the validity of mortgages, liens, and other filings.

The importance to the County of the proper functioning of the register of deeds office warrants serious consideration of the issue, including public comment and discussion. I would be glad to speak with you or any other member of Council should there be any questions or concerns, and request that Council seriously consider placing the issue on the upcoming agenda.

Sincerely,



Christy F. Allen
Charleston County Bar Association
President (2021-2022)

Teddie E. Pryor, Sr.
January 19, 2022
Page 3

cc (via e-mail):
Herbert Ravenel Sass, III
Dickie Schweers
Robert L. Wehrman, Esq.
Henry E. Darby
Kylon Jerome Middleton
C. Brantley Moody
Anna B. Johnson
Jenny Costa Honeycutt, Esq.