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February 21, 2019

Mr. Ralph D. Karpinos  
Town Attorney  
Town of Chapel Hill  
405 Martin Luther King, Jr. Blvd.  
Chapel Hill, NC 27514

Re: Inquiry Regarding Marker and Plaque on the South Side of Franklin Street in Chapel Hill

Dear Mr. Karpinos:

I am writing in response to your letter of January 17, 2019, by which you inquired about a stone marker and plaque that reads "Jefferson Davis Highway" on the south side of Franklin Street in Chapel Hill, which is U.S. Highway 15. You noted that the Orange County Board of County Commissioners recently voted to repeal a prior board resolution that designated U.S. Highway 15 through Orange County as the Jefferson Davis National Highway. At the request of the Town Council of Chapel Hill, you wrote to inquire:

- whether the Town of Chapel Hill or some other public agency or property owner has the jurisdiction over the site where the marker is located; and
- whether and how the marker and plaque can be removed.

You noted your understanding that Franklin Street is a state-maintained road, and you provided our office with various items of background information you had gathered, some of which could indicate that the marker and plaque lie within the right-of-way of the North Carolina Department of Transportation ("DOT").

I asked various lawyers in this office who deal with matters concerning real property of the State of North Carolina, including DOT right-of-way interests, to investigate the question of whether the State has any legal interest in the property where the marker and plaque are located. While our attorneys did not perform a title search, they did examine all records available to them and held by DOT or by the North Carolina Department of Administration. Their examination leads us to conclude that the area where the monument is located appears to be outside the DOT right-of-way, and therefore DOT has no jurisdiction over the site where the marker is located. Similarly, their examination leads us to conclude that the State, including the University of North Carolina at Chapel Hill, does not have a property interest in the site where the marker is located. It appears from our research that the property in question is owned by the Town of Chapel Hill;

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but again, we have not performed a title search or other exhaustive investigation. Our research has focused on whether the State owns or has an interest in the property.

With regard to whether and how the marker and plaque can be removed, I refer you to the provisions of N.C. GEN. STAT. § 100-2.1. Because the marker and plaque are not on property owned by the State or on property in which the State has an interest, we have not undertaken to determine whether the Town of Chapel Hill owns the marker and plaque, whether the marker and plaque are owned by a third party, or whether some other situation, such as that the marker and plaque are abandoned property, might be the case. We have only determined that the marker and plaque are not the property of the State of North Carolina.

I trust that this response is helpful to you. Please note that this is not an official Attorney General Opinion; it has not been reviewed and approved in accordance with the procedures for issuing official Attorney General Opinions.

Very truly yours,



Alexander McC. Peters  
Chief Deputy Attorney General

AMP/hs