

1974 WL 27713 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 15, 1974

\*1 Mr. J. Henry Chapman  
City Clerk and Treasurer  
City of Greenville  
Greenville, SC 29602

Dear Mr. Chapman:

Mr. McKenzie referred to me your request for an opinion on the use of volunteer workers with the City insofar as their Workmen's Compensation coverage is concerned. In addition, you further requested information on any possible tort liability resulting from the use of such volunteer workers. In regard to Workmen's Compensation coverage, since there is no employment contract, volunteer workers would not be covered under Workmen's Compensation, as they are not employees. (See Section 47.41(a) Larson's Workmen's Compensation Law, relating to patriotic or charitable duties. As for the question of possible tort liability, the City itself would not be liable except in those cases where sovereign immunity has been expressly waived by statute. This immunity from suit enjoyed by the municipality, however, should not be confused with personal liability for failure to provide adequate supervision of such volunteers by City employees, especially since the doctrine of fellow-servant would not apply in this case since the volunteers are not employees of the City. In conclusion, the City would not be liable for these volunteer workers under Workmen's Compensation Law or tort principles, but if the City desires to bring these volunteer workers under the Workmen's Compensation Law, the City should employ them on a regular basis, instead of accepting their volunteer services.

Please contact me if I can provide any further assistance.

Sincerely,

Hardwick Stuart, Jr.  
Assistant Attorney General

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