

1974 WL 28120 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 14, 1974

***1 Re: J. C. Penney Properties, Inc. Melvin Simon & Associates, Inc . McCrory-Sumwalt Construction Company**

Mr. H. B. Ross
South Carolina State Licensing Board for Contractors
1300 Pickens Street
Columbia, South Carolina 29201

Dear Mr. Ross:

You have requested this office to advise you as to whether Melvin Simon & Associates, Inc., of Indiana, must be licensed as a 'general contractor' pursuant to Section 56-401, et seq., Code of Laws of South Carolina, 1962, as amended.

A general contractor is defined in Section 56-401 of the Code as 'one who for a fixed price, commission, fee or wage undertakes or offers to undertake the construction or superintending of construction of any building, highway, sewer, grading, improvement, reimprovement, structure, or part thereof, when the coat of the undertaking is thirty thousand dollars or more.' Mr. Gene V. Pruet, attorney for McCrory-Sumwalt Construction, has stated in his letter of October 29, 1974, that Simon 'will not do any construction or superintending of construction. McCrory-Sumwalt Construction Company will do all of this itself.' Mr. Pruet has further informed me that this particular contract is designated as a 'design and build' contract in which McCrory-Sumwalt will be the general contractor and will be totally in charge of construction and design of the building.

McCrory-Sumwalt is a licensed general contractor in this State. The requirement of the statute in having a licensed, qualified general contractor appears to have been met. Therefore, based on this understanding, it is the opinion of this office that neither the spirit nor the intent of the contracting law would require Melvin Simon & Associates, Inc., to be licensed by the Board.

If I can be of any further assistance, please feel free to call on me.

Very truly yours,

Stephen T. Savitz
Assistant Attorney General

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