

1979 WL 42743 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 9, 1979

*1 Mr. Michael L. Harlan
Director of Parks & Recreation
Richland County Recreation Commission
5819 Shakespeare Road
Columbia, South Carolina 29204

Dear Mr. Harlan:

You have requested an opinion whether the Richland County Recreation Commission has the legal authority to promote and conduct tour activities off the Commission's property and outside Richland County when the costs of the tours are borne exclusively by the participants. It is our opinion that the Commission does not have the legal authority to perform this activity.

The Commission has not been given the express power to conduct tours. Act No. 873, S.C. ACTS AND JOINT RESOLUTIONS, 1960. In fact, the Commission has not even been given the express power to perform recreational functions generally. Therefore, it is possible that an individual member or employee of the Commission could find himself personally liable in a suit for damages brought by a private party who sustained an injury on a tour. This claim could be made against the individual Commission member or employee on the ground that the Commission has no express legal authority to promote or conduct such tours, making that individual personally liable because such activity was outside the scope of his employment.

To avoid the possibility of this occurring, it is our advice that the Commission obtain a specific statutory grant of authority either to provide recreational services generally or else to promote and conduct tours. This would place that activity on a firm legal footing and should eliminate that possibility of personal liability for individual members and employees of the Commission.

Sincerely yours,

David C. Eckstrom
Staff Attorney

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