

1983 WL 181826 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 4, 1983

*1 William R. Bradford, Jr.

Magistrate

Fort Mill Township

114 Springs Street

Fort Mill, S.C. 29715

Dear Magistrate Bradford:

In a letter to this office you raised several questions concerning matters associated with the Tega Cay community. Your letter indicated that the cases instituted by the town are typically brought to your court for trial.

In your first and fourth questions you indicated that you are unclear as to your authority to hear cases which are brought by a private security force which, according to your letter, apparently functions as the police force for Tega Cay. While, as Magistrate, you are authorized to try cases alleging state criminal offenses which occur within a municipality, a broader question appears to exist as to the authority of a private security force to function as indicated in your letter. I am enclosing a copy of a previous opinion of this office, a letter dated March 6, 1980, which deals generally with the question of whether a municipality is authorized to contract with a private security agency as to grant to such agency personnel police power to make arrests on public streets and public property. The opinion indicates that while law enforcement power has been delegated by the State to its municipalities, such municipalities:

‘. . . may not contract with a private security . . . (agency) . . . to give the agency personnel police power to arrest on public streets and public property’.

As to your question of whether your court should hear such cases, as I indicated to you earlier in our telephone conversation, a meeting should be arranged between you, appropriate county officials—inasmuch as the county is funding your court and receiving the revenue from the fines imposed in your court—and officials of Tega Cay. The problems addressed in your letter, and the response outlined in this letter, could then be discussed and hopefully, some resolution of the matter be accomplished. Obviously, one means of divesting your court of the responsibility of hearing the referenced cases is the establishment of a municipal court pursuant to the provisions of [§ 14-25-5, Code of Laws of South Carolina \(1976\)](#), as amended.

Concerning your question regarding the authority to make trespass charges against individuals who make unauthorized entry into the town, I am enclosing a copy of an opinion dated February 17, 1982, which indicates that once incorporated, Tega Cay could not control traffic, so as to refuse entry to individuals other than residents and renters who are allowed to enter by a security guard.

As to your remaining question concerning whether a municipality may promulgate their own rules concerning certification of radar operators, please be advised that I am unaware of any statewide rules requiring certification of radar operators. While the Criminal Justice Academy does offer a course of training for such operators, there is no law in effect which requires successful completion of such training prior to using radar.

*2 If there are any further questions, please advise.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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