

1977 WL 37022 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 7, 1977

***1** Toney J. Lister
Member
House of Representatives
District No. 37
Spartanburg County

QUESTION PRESENTED:

Can the City of Spartanburg engage in the business of installing and monitoring alarm systems in the homes and businesses of private citizens?

STATUTES, CASES AND TREATISES

Section 5–7–30, Code of Laws of South Carolina, 1976;

[Ashmore v. Greater Greenville Sewage District](#), 211 S. C. 77, 44 S. E. 2d 88 (1947);

[Caldwell v. McMillan](#), 224 S. C. 150, 77 S. E. 2d 798 (1953);

[City of Charleston v. Jenkins](#), 243 S. C. 205, 133 S. E. 2d 242 (1963);

[Haesloop v. Charleston](#), 123 S. C. 272, 115 S. E. 596 (1923);

[Lomax v. City of Greenville](#), 225 S. C. 289, 199 S. E. 2d 191 (1954)

62 C. J. S., Municipal Corporations, Sections 110 and 117.

DISCUSSION:

Generally a municipality can engage in a business if authority to do so is expressed or reasonably implied from its powers. 62 C. J. S., Municipal Corporations, Sections 110 and 117. The business must be a public one or fulfill a public function. When there is authority for a municipality to conduct a business, the municipality must be acting in the public interest. In this regard, the courts have held that municipalities may issue bonds for the construction of an auditorium and may set aside city property for the construction of a hotel because the auditorium and hotel fulfilled public purposes, [Ashmore v. Greater Greenville Sewage District](#), 211 S. C. 77, 44 S. E. 2d 88 (1947), and [Haesloop v. Charleston](#), 123 S. C. 272, 115 S. E. 596 (1923), and that the state could operate a cafeteria for its employees in order to improve the efficiency of the State Highway Department. See, [Caldwell v. McMillan](#), 224 S. C. 150, 77 S. E. 2d 798 (1953).

Although there is no express statutory authority for the City of Spartanburg to install and monitor alarm systems, such authority may be implied from the general municipal police powers provision. Section 5–7–30, Code of Laws of South Carolina, 1976, granted municipalities

‘authority to enact regulations, resolutions and ordinances, not inconsistent with the Constitution and general law of this State, including the exercise of such powers in relation to . . . law enforcement, health and order in such municipalities or respecting any subject as shall appear to them necessary and proper for preserving health, peace, order and good government therein.’

The grant of police powers is ‘as broad and comprehensive as it was within the power of the State to delegate.’ See [Lomax v. City of Greenville](#), 225 S. C. 289, 199 S. E. 2d 191 (1954), and [City of Charleston v. Jenkins](#), 243 S. C. 205, 133 S. E. 2d 242 (1963). Therefore, a municipality may exercise those powers that can be reasonably inferred from its general police powers.

The purpose of the City's installing and monitoring alarm systems appears to be for the preservation of ‘health, peace, order and good government.’ A public interest is involved since the City appears to be offering additional law enforcement protection to its residents who wish to receive it. As long as the City offers this service to all its residents and not to a portion of them, this service will be offered pursuant to the municipal police powers provision.

CONCLUSION:

***2** The City of Spartanburg may, pursuant to the general municipal police powers provision (Sections 5–7–30, 1976 Code), install and monitor alarm systems in the homes and businesses of private citizens.

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