

1975 S.C. Op. Atty. Gen. 84 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4012, 1975 WL 22310

Office of the Attorney General

State of South Carolina

Opinion No. 4012

April 7, 1975

*1 Mr. Robert O. Conoley
City Attorney
City of Greenville
Greenville, South Carolina 29602

Dear Bob:

Thank you for your letter of March 17, 1975, inquiring if the recorder for the Town of Fountain Inn may serve as assistant recorder for another municipality on an as-needed basis.

As noted by you, this Office has expressed the opinion (64 Attorney General's Opinions 110) that the position of city recorder is an office. The position of city recorder is established by law by virtue of the provisions of Section 15-1003 of the Code of Laws, or at least the city council of towns of 1,000 and over may establish such a position. Once created, it is my opinion that it is an office. In towns of a lesser jurisdiction, sometimes created by statute also, the same conclusions would be applicable. In other cases where the mayor acts as city recorder by virtue of statute, he does so in a de facto capacity, which removes the dual officeholding stigma.

The position of assistant recorder is apparently not provided for by statute, although I do not know the precise municipality involved. In any event, it is my opinion that the duties required of an assistant recorder on an as-needed basis are intermittent, and not continuing, and therefore would not constitute the person holding such a position an officer within the meaning of the dual officeholding provision. [Sanders v. Belue](#), 78 S.C. 171, 58 S.E. 762.

Unless some further facts are shown, I do not believe that a dual officeholding situation is presented in such cases.

With best wishes,
Very truly yours,

Daniel R. McLeod
Attorney General

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