

1973 WL 27719 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 11, 1973

**\*1 Re: City of Rock Hill No. 69-0570231 Housing Authority for City of Rock Hill No. 69-0570443**

The Honorable Purvis W. Collins  
Director  
S. C. Retirement System  
P. O. Box 11960  
Columbia, South Carolina 29211

Dear Mr. Collins:

Your office has requested an opinion concerning the status of Housing Authority personnel for the City of Rock Hill. More particularly you have asked whether the Authority personnel are legally classified as employees of the City or of the Authority.

The Housing Authority of the City of Rock Hill is a duly organized, existing public body-corporate and politic- of the State of South Carolina. The City of Rock Hill is a municipal corporation of the State of South Carolina.

The City and the Authority have attempted to enter into an agreement whereby the activities of the Authority are implemented through the issuance of directives to City personnel furnished the Authority pursuant to said contract. The City and the Authority maintain that in essence the City is an independent contractor hired by the Authority and consequently the employees performing the activities of the Authority are employees of the City.

The definition of an employee under the Social Security Act includes an individual who has the status of an employee under the applicable common law rules. It is generally accepted that an employer-employee relationship exists when the person for whom services are performed retains the right to control and direct the individual performing the services, not only as to the ultimate result, but also as to the details and means of its accomplishment.

In the present case the Authority and the City have entered into a contract by which the City is responsible for the preparation of payrolls, administration of employment benefits, accounting, preparation of tax statements, and normal financial reporting services associated with the payroll.

The ultimate control of the individual performing services rests with the Authority, both as to the result accomplished and as to the details and means employed. The right to discharge is also vested in the Authority. In addition, it is the Authority who furnished the place to work as well as the necessary equipment by which the individuals perform their duties. In light of these facts there can be no doubt that the personnel in question are juridically employees of the Authority rather than of the City. The agreement between the Authority and the City is effectively merely one whereby the City assumes the accounting and financial transactions for the personnel who are working under the management and control of the Authority.

Since the Authority is a political subdivision of the State of South Carolina and the Authority is in fact the employer of the employees in question, it is the opinion of this Office that the City of Rock Hill can not include the said employees on their quarterly report. The City of Rock Hill may file reports for the employees of the Housing Authority provided they file separate reports.

Sincerely yours,

**\*2** A. Camden Lewis  
Assistant Attorney General

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