

FILE

Subject Libertyships
Fire Protection
Copy to _____



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

March 28, 1974

Opinion No. 74- 101

Richard A. Medley
Montgomery County Attorney
Montgomery County Courthouse
Independence, Kansas 67301

Dear Mr. Medley:

We have your letter of March 8, concerning the matter of fire protection in the City of Liberty, Kansas, and the Liberty Township. You enclose a copy of an agreement, dated March 21, 1966, between the City and the Township, whereby the Township agrees to pay to the City a yearly sum, in consideration of its agreement "to share the services of their fire fighting facilities in response to any call within the limits of said Township."

You also enclose a copy of the constitution and bylaws of Liberty Rural Fire Department. They are undated, and we cannot determine when it was organized. You indicate that when the 1966 agreement was made, both Cherokee and Liberty Townships entered into a written contract with the City, in which each agreed to pay \$600.00 per year to the City of Liberty for the Township's portion of the maintenance of the fire department. This subsequently was raised to \$900.00. Cherokee Township is now organizing its own rural fire district, and Liberty Township feels it cannot legally make further payments to the City of Liberty because the rural fire department is illegally organized, although funds are available for such payments.

No information which we presently have indicates that the Liberty Rural Fire Department was organized as a statutory fire district; rather, it appears to have been organized as a voluntary organization or group for fire-fighting purposes. So far as appears, as a legal entity it bears no legal relation to either the City or Township, but is merely a voluntary organization which was formed to provide fire protection. K.S.A. 80-1925 states in pertinent part:

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"Any rural volunteer fire-fighting organization, group or department organized and existing on the effective date of this act [April 15, 1965], which has secured fire-fighting equipment in accordance with federal law and is furnishing fire-fighting services, is hereby authorized pursuant to agreement to furnish fire-fighting service to any person, group of persons or a municipality upon such terms and for such compensation as may be agreed to . . ."

If the Liberty Rural Fire Department qualifies under this section, it may, of course, contract with the City to furnish fire protection or with the Township for like purpose. The Township and City may contract for fire protection purposes pursuant to an interlocal agreement entered into under K.S.A. 12-2901 et seq., and the Township may lawfully pay money to the City for fire protection services pursuant to such an agreement.

To answer your specific questions, first, it does not appear that the Liberty Rural Fire Department is a legal entity of either the City or the Township or that it has any legal status other than as a voluntary fire-fighting association. As such, it may not contract with the Township for fire protection absent express statutory authority for such a contract, and our research discloses none. As a voluntary association, it is doubtless free to contract with the City, which under the home rule amendment to the Kansas Constitution requires no express statutory authority for such an agreement. Lastly, the Liberty Township may not enter into a contract for fire protection under any circumstances without compliance with the law pertaining to fire districts or the like, or compliance with K.S.A. 80-1905.

If you should have further questions concerning this matter, please do not hesitate to call upon us.

Yours very truly,



VERN MILLER
Attorney General

VM:JRM:jsm