Municipalities -- Extraterritorial Powers

Number: INFORMAL

Date: December 11, 2014

Mr. Scott E. Simpson
Korey, Sweet, McKinnon & Simpson
Suite A, Granada Oaks Professional Building
595 West Granada Boulevard
Ormond Beach, Florida 32174

Dear Mr. Simpson:

On behalf of the City of South Daytona, you ask for assistance in determining whether the city may provide advanced life support services outside its territorial limits pursuant to its certificate of public convenience and necessity issued by the county under section 401.25(6), Florida Statutes.

In sum, absent a grant of authority by general or special act of the Legislature, a city may not exercise extraterritorial powers. While section 401.25(6), Florida Statutes, authorizes a county to adopt ordinances that provide reasonable standards for certificates of public convenience and necessity for basic or advanced life support services and air ambulance services, with the input of municipalities located within the county, it does not contain an explicit grant of authority for a city to exercise extraterritorial powers.

You state that the City of South Daytona (city) currently is a party to an interlocal agreement with Volusia County for the city to provide fire service and basic life support services to the unincorporated areas of the county adjacent to the city. There currently is no interlocal agreement between the county and city for the city to provide advanced life support services in the unincorporated area of the county. You indicate that the county has taken the position that the city must provide advanced life support services to the unincorporated areas of the county before it will issue a certificate of public convenience and necessity for advanced life support services to the city. Volusia County has advised this office that the provisions in section 401.25(6), Florida Statutes, grant the authority for the county to allow the city to provide extraterritorial advanced life support. The county asserts that this is an intergovernmental dispute which does not require this office's intervention. While there is a difference of opinion between the city and the county, it would appear that the basic question is whether section 401.25(6), Florida Statutes, operates to grant a municipality extraterritorial power in providing life support services. The county has provided a copy of a Certificate of Public Convenience and Necessity issued to the City of South Daytona to provide advanced life support, non-transport emergency medical services, pursuant to the Volusia County Code of Ordinances and Chapter 401, Florida Statutes.

Section 401.25(1), Florida Statutes, requires licensure by the Florida Department of Health before an entity may provide prehospital or interfacility advanced life support services or basic life support transportation services.[1] Subsection (2)(d) of the section requires that an applicant

obtain a certificate of public convenience and necessity from each county in which it will operate. The statute further provides:

"The governing body of each county may adopt ordinances that provide reasonable standards for certificates of public convenience and necessity for basic or advanced life support services and air ambulance services. In developing standards for certificates of public convenience and necessity, the governing body of each county must consider state guidelines, recommendations of the local or regional trauma agency created under chapter 395, and the recommendations of municipalities within its jurisdiction."[2]

The plain language of the statute authorizes a county to adopt ordinances providing reasonable standards for certificates of public convenience. There is no apparent or implicit authority within the statute's language authorizing the extraterritorial exercise of municipal powers.

Article VIII, section 2(c), Florida Constitution, provides that the "exercise of extra-territorial powers by municipalities shall be as provided by general or special law." Thus, the grant of municipal home rule powers does not extend to the exercise of extraterritorial power and the powers of a municipality generally cease at the municipal boundaries. Absent statutory authorization, municipal powers cannot be exercised outside the city's limits.[3]

On several occasions this office has commented upon the need for statutory authority before a municipality may exercise extraterritorial power. In Attorney General Opinion 93-52, this office was asked whether a municipality could construct a transportation project which crossed the jurisdictional boundaries of another municipality using funds provided pursuant to state statute. A state agency was authorized by the statute to provide funding for local transportation projects. Discussing the limitation of a municipality to exercise powers outside its jurisdictional boundaries, the opinion concluded that the municipality could not go forward with the project.[4]

In Attorney General Opinion 75-235, this office commented upon the authority of a municipality to enter into an agreement with a county for the joint operation of a recreational facility on land outside the municipality's jurisdictional limits. In that instance a state statute specifically authorized municipalities to acquire lands or buildings within or beyond their corporate limits for playgrounds and recreational facilities and recognized that any two or more municipalities or counties could jointly provide a recreation system. It was concluded that the municipality could enter into an agreement with the county for the joint operation of recreational facilities and programs.

It may be instructive to review the discussion in Attorney General Opinion 84-40 in which it was concluded that a fire control district could enter into an interlocal agreement with the county to provide fire protection services outside the district's territorial boundaries and an informal opinion rendered to The Honorable James B. Fuller, dated March 26, 1999,[5] before proceeding in providing advanced life support services to the county. I trust that these informal comments will be of assistance to you.

Sincerely,

Lagran Saunders

Assistant Attorney General

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Enclosure

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[1] Information provided by Volusia County shows that South Daytona Rescue possesses a non-transport Advanced Life Support License which expires March 1, 2015.

[2] Section 401.25(6), Fla. Stat.

[3] *See* s. 166.021(3)(a), Fla. Stat. (1995), stating that municipal home rule powers do not extend to "[t]he subjects of annexation, merger, and exercise of extraterritorial power, which require general or special law pursuant to s. 2(c), Art. VIII of the State Constitution[.]" *And see Ramer v. State,* 530 So. 2d 915 (Fla. 1988) (city police officer lacked authority to seize vehicle on private property outside city limits); *Collins v. State*, 143 So. 2d 700 (Fla. 2d DCA 1962), *cert. denied*, 148 So. 2d 280 (Fla. 1962).

[4] *See* Op. Att'y Gen. Fla. 93-52 (1993).

[5] Copy enclosed.