



**NORTH CAROLINA BOARD OF EXAMINERS
FOR ENGINEERS AND SURVEYORS**

4601 Six Forks Rd Suite 310
Raleigh, North Carolina 27609

July 31, 2009

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Andrew L. Ritter
Executive Director

Ms. Elizabeth L. McKay, Special Deputy Attorney General
Office of the Attorney General
Department of Justice – Highway Division
1505 Mail Service Center
Raleigh, NC 27699-1505

Re: Request for Advisory Opinion: Do the licensing requirements of the Engineering and Land Surveying Act, G.S. 89C, apply to employees of Council of Governments (COG)?

Dear Ms. McKay:

The North Carolina Board of Examiners for Engineers and Surveyors (Board) is requesting an advisory opinion of the Attorney General to determine whether the licensing requirements of the Engineering and Land Surveying Act, G.S. 89C, apply to employees of Council of Governments (COG).

In addition to the primary question, we ask that the following questions, and any others that you deem appropriate, be answered:

1. Is a Regional Council of Governments (COG), created under G.S. 160A-470, either a "political subdivision of the State" or a "municipality" in G.S. 89C-25(7)?
2. If a COG is not a political subdivision of the State or a municipality, do the licensing requirements of the Engineering and Land Surveying Act, G.S. 89C, apply to the employees of a COG when they are providing services that fall within the definition of land surveying to the member governmental units?
3. If a COG is a political subdivision of the State or a municipality, does G.S. 89C-25(7) exempt the employees of a COG when they are providing services that fall within the definition of land surveying in G.S. 89C-3(7) to the member governmental units?

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4. Can the COG use its unlicensed employees to perform engineering or land surveying services for a member municipality or county? We understand that the North Carolina Geographic Information Coordinating Council (GICC) is requesting a separate advisory opinion as to whether one municipality can provide services that fall within the practice of engineering or land surveying under G.S. 89C to another municipality without the employees being licensed as professional engineers or professional land surveyors.

5. Is the providing of the services that fall within the practice of engineering or land surveying under G.S. 89C to another municipality a "holding out or an offer to the public of engineering or any service thereof as prohibited by this Chapter" under the language of G.S. 89C-25(7) that negates the possible exemption?

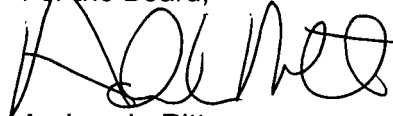
6. What if in # 4 it is providing the survey data from the Graphic Information System database (GIS) to the public as a public record for use as a survey?

7. What if in # 4 it is advertised to the public as an alternative to hiring a professional land surveyor to do a survey?

8. If it is determined that a COG is a political subdivision of the State or a municipality, how does the fact that a COG may be incorporated as a non-profit corporation affect the determination in general, or as to the specific COG that is incorporated?

Thank you for your time and assistance in considering this matter. Please feel free to contact our Board Counsel, David S. Tuttle, at extension 111 for any additional information you may require or with any questions.

For the Board,

A handwritten signature in black ink, appearing to read "Andrew L. Ritter". The signature is fluid and cursive, with the first name being the most prominent.

Andrew L. Ritter
Executive Director

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