

OFFICE OF THE ATTORNEY GENERAL



94-00055

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Honorable E. B. McClain
Member
House of Representatives
3826 Troy Terrace
Brighton, AL 35020

Municipalities - Funds

Whether person can be paid in a lump sum pursuant to contract with municipality is a question of fact which must be resolved by parties involved.

Dear Representative McClain:

This opinion is issued in response to your request for an opinion from the Attorney General.

QUESTION

I hereby request an opinion on whether the City of Bessemer can pay monies due to C. V. Foreman for services rendered to the city. Documentation is attached to this request.

FACTS, ANALYSIS AND CONCLUSION

Attachments to your request indicate that Mr. Foreman wishes to be compensated for work done for the City of Bessemer from June 1986 to January 1993. He also wishes to have payment in a lump sum.

An affidavit from the person serving as Mayor from 1974 until October 1, 1990, contains the following information:

"In May 1986, the City of Bessemer amended an agreement with Moore Coal Company, Inc., whereby Moore Coal Company, Inc., would pick up solid waste garbage in newly annexed areas of the City of Bessemer. Moore Coal Company had a contract with C. V. Foreman to handle solid waste. Later this contract was assigned to C. V. Foreman by Moore Coal Company, with the City of Bessemer consenting.

"In 1986, when the contract was amended to include solid waste, I employed C. V. Foreman to pick up solid waste in the downtown area of the City of Bessemer that is bounded on the east by Carolina Avenue, on the south by Fourteenth Street, on the west by Ninth Avenue, and on the north by Twenty-First Street. C. V. Foreman was to collect solid waste garbage in this area on Wednesdays and Saturdays each week. C. V. Foreman and I agreed that his compensation would be \$1,200.00 per month for this service. He was to notify me when he desired payment.

"From May 1986, until I left office October 1, 1990, Mr. Foreman did not request any funds for the services he rendered to the City of Bessemer. As I recall, C. V. Foreman wanted this money to accumulate over a period of time before he made a withdrawal. As I recall, he mentioned that this would be his retirement."

The affidavit from the former Mayor indicates personal knowledge that C. V. Foreman picked up the solid waste garbage in the above areas.

We do not know whether there is other documentation of this arrangement in the records of the City of Bessemer, but the contract should be on file there. Ordinarily, claims

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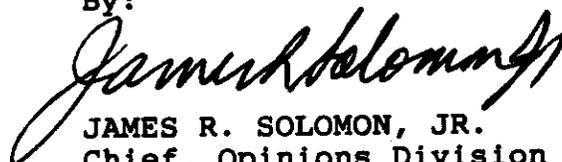
against a municipality must be presented to the clerk for payment within two years from the accrual of the claim. However, we know of no reason why a provision for a lump sum payment for work performed pursuant to a contract, rather than a monthly payment, would be unlawful.

While we wish to assist all the parties in resolving this matter we cannot resolve questions of fact. We urge the parties involved to work together to settle this matter in a manner satisfactory to all.

I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS
Attorney General
By:



JAMES R. SOLOMON, JR.
Chief, Opinions Division

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