

OFFICE OF THE ATTORNEY GENERAL



94-00063

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NOV 24 1993

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Honorable Naomi D. Flurry
Mayor
P. O. Box 27
Killen, AL 35645

Fire Departments - Volunteers
- Funds - Volunteer Programs

Funds raised in the name of a municipally-sanctioned volunteer fire department by that agency become municipal funds. Funds raised by a Ladies Auxiliary which is clearly independent of the municipality belong to that organization and may be used to purchase food or flowers.

Volunteer fire department funds must not be commingled with Ladies Auxiliary funds.

Dear Mayor Flurry:

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

QUESTION NO. 1 AND 2

May funds raised in the name of the Killen Volunteer Fire Department by the Ladies Auxiliary (bake sales, yard sales, etc.) be used to purchase food for Fire Department functions? Also, may these funds be used as "Flower Funds" (to send flowers to members who are ill or in case of deaths in family members)?

FACTS AND ANALYSIS

The answer to your question depends upon the nature of the group soliciting the funds. Opinion of the Attorney General to Honorable Mike Mattox, dated February 11, 1988, A.G. No. 88-00169. If the Ladies Auxiliary is an organization of volunteers not directly tied to or connected with the municipality, then these funds would become those of the organization. Opinion to Honorable C. Eleanor Byrd, dated December 18, 1984, A.G. No. 85-00129. If the people who donate the funds are donating to the municipally-sanctioned Killen Volunteer Fire Department, regardless of to whom they actually hand their money, then those funds belong to the Town of Killen. Opinion to the Honorable Elvin G. Ewing, Sr., dated May 4, 1990, A.G. No. 90-00268. If the people who donate the funds are donating to the Killen Volunteer Fire Department Ladies Auxiliary, and if they clearly understand the nature of their donations, and the Auxiliary is a group of volunteers independent of the Town of Killen and does not use the municipality's tax deductible status in order to solicit funds, then the funds do not become municipal funds and can be used at the discretion of the Ladies Auxiliary. However, if the volunteer fire department is a municipally-sanctioned department and the funds are raised by that agency, then the funds collected become municipal funds. Opinion to Honorable Mack A. Jordan, dated September 6, 1985, A.G. No. 85-00501.

A factual determination, then, is required to resolve the legal question presented. If the conclusion is that these monies are municipal funds, then these monies would be included in the written financial report of the mayor to the city council and would be audited with other municipal funds. The city council would have the final authority on the manner in which these funds were expended, and they could not be used for food or flowers. However, if the funds are monies donated to the Ladies Auxiliary, they may be used to purchase food for fire department functions or for flower funds.

CONCLUSION

Whether funds collected by the Ladies Auxiliary of a volunteer fire department become municipal funds depends upon the nature of the group soliciting the funds. Funds raised in the name of a municipally-sanctioned volunteer fire department by that agency become municipal funds. Funds raised by a Ladies Auxiliary which is clearly independent of

the municipality belong to that organization and may be used to purchase food or flowers.

QUESTION NO. 3

Can the funds raised by the Ladies Auxiliary be maintained separately from other Fire Department funds?

FACTS AND ANALYSIS

Funds raised by the Ladies Auxiliary belong to that organization and should not be commingled with funds of the volunteer fire department. More to the point, funds belonging to the volunteer fire department should not be commingled with Ladies Auxiliary funds. Volunteer fire department funds belong to the municipality, are to be expended by the city council, and are to be audited along with other municipal funds. Opinion to Honorable Eleanor Byrd, dated December 18, 1984, A.G. No. 85-00129.

CONCLUSION

Volunteer fire department funds must not be commingled with Ladies Auxiliary funds.

I hope this sufficiently answers your questions. 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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