



North Carolina
Geographic Information Coordinating Council

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Chair

Dr. Lee Mandell

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Center for Geographic
Information & Analysis

Committees

Management and Operations
Statewide Mapping Advisory
GIS Technical Advisory
State Government GIS Users
Local Government Committee
Federal Interagency Committee

January 20, 2010

Mr. Grayson Kelley
Chief Deputy Attorney General
Department of Justice
P.O. Box 629
Raleigh, NC 27609

Re: Request for Advisory Opinion Concerning Geographic Data Collection by Local Governments

Dear Mr. Kelley:

The North Carolina Geographic Information Coordinating Council (GICC) operates under General Statutes §143-725 through 143-727. The purpose of the GICC is to develop policies regarding the utilization of geographic information, geographic information systems (GIS) and related technologies, and to promote GIS information as a strategic resource for the State. The GICC is staffed by the Center for Geographic Information and Analysis; its purposes include management and distribution of GIS information, operating as a statewide clearinghouse and providing Internet access to geographic information. The GICC requests an advisory opinion on the subject of local government activities comprising collection and use of geographic information and whether such activities are included in, or exempted from, the North Carolina Engineering and Land Surveying Act: Chapter 89C of the General Statutes.

The NC Board of Examiners for Engineers and Surveyors (NCBELS) is organized under the provisions of The North Carolina Engineering and Land Surveying Act, Chapter 89C of the North Carolina General Statutes (GS 89C). The Board reviews applications, administers examinations, licenses qualified applicants, and regulates the professional practice of the licensees throughout the State. The Board investigates alleged violations of provisions of the licensure law. The Board has requested a related advisory opinion by letter to Elizabeth McKay; a copy is enclosed.

Chapter 89C –(G.S. § 89C-3 (7)) defines the practice of land surveying as “(c)reating, preparing or modifying electronic or computerized data, including land information systems and geographic information systems relative to the performance of the practice of land surveying.” G.S. § 89C-23 establishes that it is unlawful to practice surveying without a license. G.S. § 89C-25 defines limitations of the chapter and exempts “work done by employees of the State of North Carolina, or any political subdivision of the State, or any municipality.” The Board adopted an Administrative Rule (21 N.C.A.C. 56.1608) that, we believe, must be considered as well. The Rule, in pertinent part, states:

(a) General: Land Information System/Geographic Information System (LIS/GIS) surveys are defined as the measurement of existing surface and subsurface features for the purpose of determining their accurate geospatial location for inclusion in an LIS/GIS database. All LIS/GIS surveys as they relate to property lines, rights-of-way, easements, subdivisions of land, the position for any survey monument or reference point, the determination of the configuration or contour of the earth's surface or the position of fixed objects thereon, and geodetic surveying which includes surveying for determination of the size and shape of the earth both horizontally and vertically and the precise positioning of points on the earth utilizing angular and linear measurements through spatially oriented spherical geometry, shall be performed by a Land Surveyor who is a licensee of this Board unless exempt by G.S. 89C-25.

Local government representatives on the GICC have expressed concerns about areas in which the surveying community and the GIS community overlap and where there is a need for clarity in data collection activities. The GICC has considered these concerns within the context of its authority, and the activities of local governments as illustrated below.

- A municipality's services may extend beyond its municipal limits and a jurisdiction may need to collect data, including GIS data, for those areas.
- Local governments may partner on projects resulting in collaborative GIS data collection efforts.
- Metropolitan Planning Organizations or MPOs are often located organizationally within the lead city in a region but have responsibility for transportation planning for the region. The MPO employees are technically city employees, yet they may be collecting GIS data for such purposes in areas outside the jurisdiction of the city.

The GICC seeks an advisory opinion on the following questions, construing provisions of the General Statutes and Administrative Rules identified above, and other authorities as you believe necessary:

1. Is a municipality permitted to collect GIS data?
2. Is a municipality permitted to collect GIS data outside of its municipal limit?
3. Is a municipality permitted to collect GIS data in that city's Extra-Territorial Jurisdiction (ETJ) area?
4. Is a municipality permitted to collect GIS data for a county outside the boundary of the municipality?
5. If a municipality is permitted to collect GIS data outside of its municipal limit, is it permitted to collect GIS data for another municipality?
6. Is a county permitted to collect GIS data for another county?
7. Is a county permitted to collect GIS data within an municipality?

Thank you for your attention to this matter. If you have questions, please do not hesitate

to contact me at 919-327-8112 or Tim Johnson, Director, Center for Geographic Information and Analysis, at 919-754-6588.

Sincerely,



Lee Mandell

Dr. Lee Mandell, Chair
Geographic Information Coordinating Council

cc: Tim Johnson, Director of the CGIA, Staff to GICC
Herb McKim, Chair, GICC-Surveyors Model Law Working Group