

Tressler | LLP

Chuck LeMoine

O: 312-768-2243

Willis Tower
233 South Wacker Drive
61st Floor
Chicago, Illinois 60606

November 20, 2024

VIA CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Mr. Sonny Ross
Shelby County Board Chairman
Shelby County Courthouse
301 E Main Street
Shelbyville, Illinois 62565

FILED
NOV 25 2024

██████████
SHELBY COUNTY CLERK

Re: Shelby County Rescue Squad /Dive Team (to be formed)

Dear Chairman Ross:

We are general counsel to the Counties of Illinois Risk Management Agency ("CIRMA"). We have been asked by CIRMA to provide a formal written response to certain insurance related questions raised by Tad Mayhall, the Public Safety Committee Chair, surrounding the formation of the Shelby County Rescue Squad that appears to be in response to 55 ILCS 5/5-1189, recent legislation that was proposed by IACBM for the exclusive benefit of Shelby County that will go into effect on January 1, 2025. The new statute is fairly broad in the types of rescue activities that are now permitted and if funded, will clearly increase county exposure to potential injuries to or those caused by volunteers who qualify under the new statute and any related county board implementation rules or procedures.

Until the Rescue Squad has been formally approved by the county board and sufficient detail exists as to the complete scope of its operations, it would be premature for our us to provide any firm opinions that pertain to applicable insurance needs or eventual requirements. Moreover, we are not counsel to the county board on any current matters and our comments contained in this letter are not legal advice. They are strictly informational and advisory at this time.

By way of background information, we understand that prior to the passage of the above-mentioned legislation, the county has had an informal "dive team" that took part in certain water-related rescue and retrieval activities in and around Lake Shelbyville. The legislation was passed at the request of the county board in order to legalize and formalize this type of activity. The team in the past and currently has been staffed by local volunteers who have never sought any compensation for these activities. We also understand that at times, local dive team volunteers have used or operated county owned equipment and/or property to conduct rescue and retrieval activities.

The specific questions that have been articulated on this matter are as follows:

It is mentioned that paying dive team members would alleviate concerns over WC coverage, but it is followed up with the policy is based on terms and conditions. Could you please lay out the terms and conditions of this?

November 20, 2024

Page 2

Response: The purpose for compensation is to clarify the relationship between the county and the Rescue Squad/Dive Team members. Establishing the members as compensated individuals would allow the members to collect workers compensation benefits for injuries versus potentially filing a claim/lawsuit (as a 3rd party) against the county for their injuries. Employees are generally prevented from suing their employers for injuries where they have worker's compensation coverage.

In absence of payment, are dive members expected to be covered for liability and WC? If so, could you point to those terms and conditions? If not, could you also please point to those terms and conditions?

Response: Terms and conditions are an integral part of every insurance policy. Members acting outside the scope of their duties would not be covered. As a matter of managing this risk, it is recommended that the county board restrict duties/activities to the purpose for which the Rescue Squad/Dive Team will be established. (i.e. public safety related). See also the response above.

If payment is required, please provide the terms of conditions of that scenario as well. Some precedent for required payment would also help us make the best decisions. This topic has been confusing, and we need to ensure we clear it up.

Response: We are unable to make any recommendations on the amount of compensation for these types of activities. The county may be required to pay minimum wage to employees under current wage and hour laws. We recommend that the county consult with competent employment counsel for advice on this specific topic.

In addition, if payment is required, what structure is best to protect the members and the county during emergency calls as well as during training events? Would it be pay per event, per month, or any other arrangement to ensure the terms and conditions are met?

Response: We are unable to make any recommendations on the amount of compensation for these types of activities. The county may be required to pay minimum wage to employees under current wage and hour laws. We recommend that the county consult with competent employment counsel for advice on this specific topic.

While we understand that some questions may still remain over insurance coverages for the Rescue Squad, in the interim, we are recommending that the county board continue treating the Dive Team members as volunteers and that each volunteer be required to sign a detailed and comprehensive waiver of liability for any injuries that may occur in connection with their rescue activities. Once the new squad is fully formed and the duties defined, CIRMA will be able to fully evaluate the added risks and make appropriate insurance recommendations to properly manage those risks.

Respectfully,

A black rectangular redaction box covering the signature of Charles A. LeMoine.

Charles A. LeMoine

November 20, 2024

Page 3

Cc:

VIA CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Martha Firnhaber
County Board Member
Shelby County Courthouse
301 E Main Street
Shelbyville, Illinois 62565

VIA CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Tad Mayhall
County Board Member
Shelby County Courthouse
301 E Main Street
Shelbyville, Illinois 62565

VIA CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Jessica Fox
Shelby County Courthouse
Shelby County Clerk & Recorder
301 E Main Street
Shelbyville, Illinois 62565

VIA E-MAIL

Kelly Murray
Rich Stokluska
Chris Smith