

NOVEMBER 30, 1949.

HON. C. R. ERDMAN, JR., *Commissioner,*
Dept. of Conservation and Economic Development,
Trenton, New Jersey.

FORMAL OPINION—1949. No. 106.

DEAR MR. ERDMAN:

This will acknowledge receipt of your letter of November 4, 1949 asking for an opinion on the question of having members of the planning and development council sign grants. Your specific inquiry as to whether or not the board members should sign grants and leases, or whether, under the 1948 act, they should be signed only by the governor and commissioner of conservation and economic development has been considered.

My opinion is that the board members should sign grants and leases granted and leased by said board.

Under the original riparian act, on down through 1915, and under R. S. 12:3-16, it is set forth that the board shall fix and determine the purchase money and rental for riparian lands, and the board shall grant or lease said lands accordingly, and all such conveyances or leases shall be prepared by the board or its agents and subscribed by the governor and the board and attested by the secretary of state. "Subscribed" means the signing of one's name beneath and at the end of such instruments.

Under Chapter 22, P.L. 1945 it is set forth that no grants shall be allowed by less than a majority of the council and they are to be approved and signed by the commissioner and the governor.

The legislature passed Chapter 448, P.L. 1948 relating to the reorganization of the executive and administrative offices and departments, etc. Under Sec. 7 of that act it provides that all functions, powers and duties of the existing department of economic development be transferred to the department of conservation and economic development. Also, in Sec. 111 it provides that all files, books, papers, records, equipment and other property of any department, commission, board, office, authority or other agency, the functions, powers and duties of which have been transferred and assigned to the department of conservation and economic development, shall, upon the effective date of this act, be transferred to the department, office, authority or agent to which such assignment or transfer has been made hereunder.

Under Sec. 112 this act shall not affect orders, rules and regulations heretofore made and promulgated by any department or commission and the functions, powers and duties which have been herein assigned to the department of conservation and economic development continued or constituted hereunder shall continue in full force and effect until amended or repealed pursuant to law. These functions, powers and duties have never been repealed by legislative enactment.

Chap. 448, P.L. 1948 provides that no section of the acts prior to this act are repealed except 12:9-1 to 12:9-10 and 12:10-1. R. S. 12:9-1 refers to harbor masters, Hudson County, and 12:10-1 refers to the appointment of port wardens. So that the original acts concerning the duties of the former boards of commerce and navigation and conservation are still in effect and must be read with and in connection with Chapter 448.

You refer to Sec. 13 which states that no riparian lease shall hereafter be allowed except when approved by at least a majority of the planning and development council

and no lease or grant in any case shall be allowed except when approved and signed by the governor and commissioner of conservation and economic development. That does not take the place of the original act, but only grants additional powers. R. S. 12:3-16 which provides that the board shall make grants and that they shall be subscribed by the governor and the board means that grants and leases shall be signed by members of the planning and development council.

Yours very truly,

THEODORE D. PARSONS,
Attorney General,

By: ROBERT PEACOCK,
Deputy Attorney General.

DECEMBER 1, 1949.

HON. J. LINDSAY DE VALLIERE,
Director, Division of Budget and Accounting,
State House,
Trenton, New Jersey.

FORMAL OPINION—1949. No. 107.

MY DEAR MR. DE VALLIERE:

I have your communication of the 22d ult. requesting to be advised whether the Director of the Division of Motor Vehicles has the authority, under existing law, to require a reexamination of every holder of a driver's license who is above the age of 40 years, the proposed examination varying according to the age of the driver.

In my opinion no such authority exists. Under our law (R. S. 39:3-10), a person desiring to drive a motor vehicle on any of the public highways of this State must first undergo and pass a satisfactory examination as to his ability as an operator, which examination includes a test as to the applicant's knowledge of certain mechanisms of a motor vehicle so as to insure the safe operation thereof and also his knowledge of the laws and ordinary usages of the roads and a demonstration of his ability to operate a motor vehicle.

The section in question further provides that upon payment of the prescribed fee and after the Director of Motor Vehicles or an inspector of his has examined the applicant and is satisfied of the applicant's ability as an operator, the Director may grant a license to the applicant to drive a motor vehicle.

If a licensee is guilty of a violation of the motor vehicle or traffic law, his license may be suspended or revoked, but only after due notice in writing upon grounds assigned and an opportunity to be heard.

The conclusion, therefore, is inevitable that if it is contemplated to require a re-examination of every holder of a driver's license who is above the age of 40, legislation will have to be enacted for that purpose.

Yours very truly,

THEODORE D. PARSONS,
Attorney General,

By: THEODORE BACKES,
Deputy Attorney General.