

OCTOBER 8, 1952.

HON. WALTER R. DARBY,  
*Director of Local Government,*  
Commonwealth Building,  
Trenton, New Jersey.

## FORMAL OPINION—1952. No. 33.

DEAR DIRECTOR:

You have requested our advice as to certain legal questions flowing from the impending acquisition by the State of New Jersey of all land lying within the present boundaries of the Borough of Island Beach, Ocean County. Your inquiry presents essentially two problems arising from this event:

- (a) What will become of the corporate entity of the Borough, and
- (b) How are its finances to be handled from then on?

In answer to your first question, the municipal corporation of Island Beach will not ipso facto cease to exist. No borough can be dissolved except by special act of the Legislature (R. S. 40:86-1; see also McQuillin, *Municipal Corporations* (1949 ed.), Secs. 8.04, 8.10). It may, however, be consolidated with any other municipality in the same county and comprising contiguous territory, in accordance with the procedure set forth in the Local Units Permissive Consolidation Act (R. S. 40:43-66.1 et seq.). Since there is no statute providing for the extinction of the corporation in the situation here presented, it seems clear that the corporate entity of the borough will remain in existence until the passage of a special act providing for its dissolution, or unless the borough is consolidated with a neighboring municipality pursuant to the consolidation act above cited.

Answering the second set of questions posed by you, I advise that until the corporate entity has been extinguished as above outlined, the municipal officials should continue to exercise their functions insofar as possible. Specifically, taxes which have already been levied for borough, school and county purposes should be collected except as they may abate upon the passage of title to the State. The obligations of the municipality should be taken care of in the usual manner. This would include payment for the tuition of Island Beach pupils attending school in another school district.

Your inquiry as to what should be done with any balance remaining in the treasury when the affairs of the borough have been wound up, will not arise until extinction of the corporate entity has been provided for. If the municipality is to be dissolved by a special act, such legislation should contain the answer to this and many other problems involved in the winding up process.

Yours very truly,

THEODORE D. PARSONS,  
*Attorney General.*

By: THOMAS P. COOK,  
*Deputy Attorney General.*