OCTOBER 20, 1952.

HONORABLE CHARLES R. ERDMAN, JR.,
Commissioner, Department of Conservation and Economic Development,
520 East State Street,
Trenton, New Jersey.

FORMAL OPINION—1952. No. 36.

DEAR COMMISSIONER:

You have requested our opinion as to whether your department is authorized by the Appropriation Act of 1952 (Chapter 43, P. L. 1952) to grant State aid from coast protection moneys for certain repairs to the bulkheads and concrete wall around Deal Lake at Ocean Township and Asbury Park, New Jersey. The pertinent section of the Appropriation Act provides money for "beach protection along the Atlantic coast, Delaware bay, Sandy Hook and the Raritan bay, including construction of beach protection measures, bulkheads, back fills, groins, jetties, pumping of sand, advertising and inspection costs."

It appears from information and maps furnished to me that Deal Lake, although separated from the Atlantic Ocean by only a 700-foot strip of beach and highway, is a body of fresh water, ordinarily not affected by the ebb and flow of the tide; and that its shores have not been washed by the sea for many years except in unusually severe storms. The waters of what is now Deal Lake, formerly flowed into the ocean and the present site of the lake was an ocean inlet, but its character was changed when access from the inlet to the ocean was closed off by the construction of the artificial 700-foot strip above mentioned. It further appears that while the damage now sought to be repaired was partly caused by the hurricane of 1950, the main cause thereof has been natural deterioration not connected with the action of the sea.

In my opinion, the repairs in question to the shores of Deal Lake would not be a "beach protection" measure along the "Atlantic coast," within the meaning of the Appropriation Act.

The "coast" ordinarily means that land which is washed by the sea. *Mahar* vs. *Gartland S. S. Co.,* 154 Fed. 2d 621, 622 (C. C. A. 2d); *U. S.* vs. *Bain,* 40 Fed. 455, 456. Likewise, the word "beach" ordinarily means the land between ordinary high water mark and low water mark, or the area over which the tide ebbs and flows. *Anderson* vs. *De Vries,* 93 N. E. 2d 251, 255, 326 Mass. 127; *Town of Easthampton* vs. *Kirk,* 68 N. Y. 459, 463; see also *State* vs. *Wright,* 54 N. J. L. 130, 23 Atl. 116. Although in certain contexts the words "beach" and "coast" have been construed to have broader meanings (see for example *Anderson* vs. *De Vries, supra,* and *Pacific Milling and Elevator Co.* vs. *City of Portland,* 133 P. 72, 76, 64 Ore. 349), I find no basis for construing the above quoted provision of the Appropriation Act as including the shore of a fresh water lake separated from the ocean by 700 feet or more of land. On the contrary, the context suggests that what the Legislature intended to aid in the Appropriation Act was the effort of local seashore communities to prevent erosion, by the action of the waves and the tides, of beaches bordering the Atlantic Ocean (plus Delaware Bay, Sandy Hook and Raritan Bay).

It is also observed that chapter 258 of the laws of 1946 (N. J. S. A. 12:6A–1 et seq.) authorized the State Department of Conservation to repair or construct

bulkheads and other beach protection devices along the Atlantic Ocean, including "any inlet along the coast of the State of New Jersey" in order to "repair damage caused by erosion and storms, or to prevent erosion of the beaches and to stabilize the inlet." Here again, it seems clear that an inlet, within the purview of that law, was a body of water whose shores might be eroded by the action of the sea and its tides and might therefore need to be stabilized. In the case of Deal Lake, erosion by the sea has already been prevented and the shores of the lake stabilized by the construction of the beach and highway separating it from the ocean.

These reasons lead to the conclusion that the aforesaid request for State aid from coast protection moneys cannot legally be granted.

Yours very truly,

THEODORE D. PARSONS,
Attorney General.

By: THOMAS P. COOK,
Deputy Attorney General.

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DECEMBER 3, 1952.

Major William O. Nicol, Supervisor,
Hotel Fire Safety,
1060 Broad Street,
Newark, New Jersey.

FORMAL OPINION—1952. No. 37.

DEAR MAJOR NICOL:

Your letter of August 27, 1952, requesting an opinion interpreting N. J. S. A. 29:1–11 (L. 1948, c. 340, p. 1330, sec. 4, as amended L. 1950, c. 245, p. 827, sec. 1), received.

N. J. S. A. 29:1–11 reads in part as follows: "'Hotel' means every building kept, used, maintained, advertised as or held out to be a place where sleeping accommodations are supplied for pay to transient or permanent guests, in which fifteen or more rooms are rented, furnished or unfurnished, including any room found to be arranged for or used for sleeping purposes, with or without meals, for the accommodation of such guests, or every building, or part thereof, which is rented for hire to thirty or more persons for sleeping accommodations."

The specific questions presented are whether a building used as a residence for retired Salvation Army officers, and buildings used as nurses' homes and operated in connection with hospitals, are subject to said law, and if so, must a hotel registration fee be paid.

It is my opinion that the building to be used as a residence for retired Salvation Army officers is subject to said law, so long as the occupants pay rent, though nominal, and a registration fee must be paid.