

such time as the Legislature does make an appropriation to the Division of Motor Vehicles to consummate the purchase.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: DAVID M. SATZ, JR.
Deputy Attorney General

DMS:kms

MARCH 22, 1956

HONORABLE JOSEPH E. MCLEAN
Commissioner of Conservation and Economic Development
State House Annex
Trenton, New Jersey

FORMAL OPINION, 1956—No. 6

DEAR COMMISSIONER MCLEAN:

Our recent Formal Opinion (1955) No. 45 has prompted an inquiry from your department as to its effect on Formal Opinion (1949) No. 41. The 1949 opinion traced the history of the predecessors of the Planning and Development Council and concluded (we think erroneously) that the Council continued to possess the powers that had been possessed by its predecessors. Your request is directed to the questions designated as numbers 4 and 5 in Formal Opinion (1949) No. 41. The question, and the answers given, were:

“4. Whether they function in the matter of waterfronts and jetty improvements?”

The answer is “Yes”.

5. Do they have any right to pass on improvements to be made and the awarding of contracts?”

The answer is “Yes”.

Your inquiry states:

“What we would like to know is: Does this department have to secure the approval of the Planning and Development Council on location of waterfront and jetty improvements, and does the department have to secure the approval of the Planning and Development Council on contracts to be awarded for such work?”

As we advised you in Formal Opinion 1955 No. 45 the functions of the Planning and Development Council are to formulate comprehensive policies with respect to natural and economic resources, State forests and parks, historic sites, and beach erosion, to advise the commissioner, to study the activities of the Division of Planning and Development, to report to the Legislature and the Governor, and to approve riparian leases and grants. These are the only powers granted to the Planning and Development Council. The remaining powers of the former Navigation Council and

the Division of Navigation were transferred to the Department of Conservation and Economic Development to be exercised and performed through the Division of Planning and Development, P. L. 1948, Chapter 448, Section 7, N.J.S.A. 13:1B-7. The Director of the Division of Planning and Development is vested with the power of supervising and administering the work of the Division, P. L. 1948, Chapter 448, Section 8, N.J.S.A. 13:1B-8.

The answers to questions 4 and 5 in Formal Opinion 1949 No. 41 are without support in the statutes and are inconsistent with our Formal Opinion 1955 No. 45. To that extent you should regard Formal Opinion 1949 No. 41 as overruled.

To answer your specific inquiries, the advice of the Planning and Development Council may, but need not be sought, on such matters as the location of waterfront and jetty improvements and contracts to be awarded for such work. It is clear that the Council does not have the power to approve or disapprove of such undertakings.

Yours very truly,

GROVER C. RICHMAN, JR.
Attorney General

By: JOHN F. CRANE
Deputy Attorney General

MARCH 23, 1956

HON. ROBERT L. FINLEY
Deputy State Treasurer
State House
Trenton, New Jersey

FORMAL OPINION, 1956—No. 7

DEAR MR. FINLEY:

You have requested our opinion as to whether the retirement allowances payable by the Public Employees' Retirement System must be reduced by the amount of Social Security benefits based on public employment in the cases of veteran employees as well as non-veteran employees.

N.J.S.A. 43:15A-59 provides as follows:

"Upon attainment of age 65 by a retired member or upon retirement by a member after the attainment of age 65, the board of trustees shall reduce such member's retirement allowance by the amount of the old age insurance benefit under Title II of the Social Security Act payable to him. Membership in the retirement system shall presume the member's acceptance of and consent to such reduction. . ."

The above-quoted section requires generally that Social Security benefits shall be offset from retirement allowances paid by the Public Employees' Retirement System. It makes no differentiation as to veteran employees. In fact, the basic reason for enacting C 84, P.L. 1954, (N.J.S.A. 43:15A-1 et seq.) was to provide for integration of Social Security with the state's own retirement system. In return for the amounts saved by the retirement system through Social Security offsets, the legislation made