

It had been urged upon the Court that by force of the provisions of Section 86:2368 of the General Code, which provided:

"Such consolidated corporation shall be subject to all the liabilities and duties of each of such corporations so consolidated; and all property, real, personal and mixed, and all debts and liabilities due to any of said constituent corporations on whatever account, as well for subscriptions for shares as all other things in action of or belonging to each of such corporations, shall be vested in the consolidated corporation, and all property, rights, privileges, powers, franchises, and immunities and all and every other interest shall thereafter be as fully and effectually the property of the consolidated corporation as they were the property of the several and respective constituent corporations \* \* \* "

the consolidated corporation takes over the license privilege of the constituent corporations and need not make application for new registration or secure new motor vehicle number plates.

In answer to this contention the Court said:

"The above-quoted provisions are part of the General Corporation Act of Ohio. True, they do provide generally for the succession by the consolidated company to the 'privileges' theretofore enjoyed by the constituent companies. But it would, we hold, be a forced construction to interpret these general provisions as controlling the sharp and explicit clauses of Section 6294-1, providing that where there is a 'transfer of ownership' the 'registration \* \* \* shall expire' and further providing that 'it shall be the duty of the original owner to immediately remove such number plates from such motor vehicle.' Before these explicit statutory provisions of Section 6294-1, the general statutory provisions of Section 8623-68 must give way. 37 Ohio Jurisprudence, 413, Section 152; *Leach v. Collins*, 123 Ohio St. 530, 533, 176 N.E. 77."

Very truly yours,

GROVER C. RICHMAN, JR.  
*Attorney General*

By: CHARLES J. KEHOE  
*Ass't Deputy Attorney General*

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NOVEMBER 7, 1956

HONORABLE GEORGE C. SKILLMAN  
*Director, Division of Local Government*  
*Department of the Treasury*  
Commonwealth Building  
Trenton, New Jersey

MEMORANDUM OPINION—P-34

DEAR DIRECTOR:

You have requested our opinion as to whether it is legal for a borough to turn

over to its Shade Tree Commission the funds which have been appropriated for its use, so that said funds may be held by the Commission in its own bank account and disbursed by it.

In our opinion the answer is in the negative. The statute governing Shade Tree Commissions (R.S. 40:64-1, et seq.) contains no authority for the transfer of such funds to the Commission or for their disbursement by that body, and makes no provision for the appointment of a treasurer by the Commission. R.S. 40:64-3 authorizes a three-member Commission to organize annually by the election of one of its members as president, and the appointment of a secretary; no mention is made of a treasurer. R.S. 40:64-11 provides for the appropriation of funds for the use of the Commission, and declares that all sums so appropriated by the governing body shall be "placed to the credit of, and subject to be drawn upon by the Shade Tree Commission for the purposes of its work." Likewise, under R.S. 40:64-13 all monies collected by the Commission either as penalties or as charges against real estate "shall be forthwith paid over to the municipal officer empowered to be custodian of the funds of the municipality, shall be placed to the credit of the Shade Tree Commission of such municipality and be subject to be drawn upon by the Commission for its work".

These provisions clearly indicate, in our opinion, that funds for shade tree purposes are, like most other municipal funds, to be kept in the custody of the municipal treasurer, to be disbursed by him upon warrant or certification by the Commission. We find no reason to read into the foregoing statutes any power in a Shade Tree Commission to hold and disburse funds, or to appoint a treasurer for that purpose.

Very truly yours,

GROVER C. RICHMAN, JR.  
*Attorney General*

By: THOMAS P. COOK  
*Deputy Attorney General*

TPC:tb.

DECEMBER 5, 1956

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

MEMORANDUM OPINION—P-35

DEAR COMMISSIONER MCLEAN:

You have requested our advice as to what State officer or agency now is vested with the power formerly vested in the Board of Commerce and Navigation by R.S. 12:3-17, to survey tidewaters of the State and to prepare maps of the surveys showing what lines have been fixed and established as exterior lines for solid filling and pier lines to be filed in the office of the Secretary of State.

By Chapter 22, P.L. 1945, the authority of the Board of Commerce and Navigation was transferred to and vested in the Division of Navigation of the State Department of Conservation. Section 29 of Chapter 22 of the Laws of 1945 provided: