N.J. 334 (1954); *Burlington Co.* v. *Martin*, 129 N.J.L. 92, 93 (E. & A. 1942). We find no reason for departing from the opinions just enumerated.

The board of library trustees and the governing body of the municipality are public officials serving the same group of citizens, and the spirit of the law calls for the closest cooperation between them, with the trustees adopting different policies and practices only to the extent that these are specially needed for the maintenance of the library committed to their charge.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: THOMAS P. COOK
Deputy Attorney General

JUNE 19, 1959

HON. SALVATORE A. BONTEMPO, *Commissioner*
Department of Conservation and
Economic Development
205 West State Street
Trenton, New Jersey

FORMAL OPINION 1959—No. 11

DEAR COMMISSIONER BONTEMPO:

You have requested our opinion as to whether a "Meadowlands Regional Development Agency" may be created to reclaim and develop the New Jersey meadowlands and if so, whether a municipality which has authorized its local housing authority to proceed with the redevelopment of blighted areas may participate in the creation of the Agency. Although the meadowlands embrace areas along the Arthur Kill, Newark Bay and Hackensack River in the Counties of Union, Essex, Hudson and Bergen, we understand that it is contemplated that the agency will function only in fourteen municipalities in the latter two counties. There are approximately 14,500 acres of meadowlands in these municipalities. It is our opinion that both questions require affirmative answers.

The Redevelopment Agencies Law, Laws of 1949, c. 306, N.J.S.A. 40:55C-1 et seq., provides that the governing body of any municipality may create a redevelopment agency, a body corporate and politic, which shall be an instrumentality of the creating municipality. The law further authorizes two or more municipalities to create a regional development agency which shall be a body corporate and politic and deemed the instrumentality of all the municipalities joining in its creation. N.J.S.A. 40:55C-6. While the law carefully distinguishes in the creation and concept of redevelopment and regional development agencies, they are vested with identical substantive powers. N.J.S.A. 40:55C-12 confers general and specific powers to all agencies created by this act. Therefore, a regional agency possesses the same authority as a municipal agency.

Under the law an agency may propose a redevelopment plan which upon proper approval by the municipality or municipalities in which the redevelopment is to take

place, may be effectuated. Redevelopment includes development. N.J.S.A. 40:55C-5. Though a finding that an area is blighted need not be made prior to the organization of an agency no municipality or municipalities may approve a redevelopment plan until it determines that the area embraced by the plan is "blighted" as defined in the Redevelopment Agencies Law. N.J.S.A. 40:55C-17.

Thus our inquiry is whether the meadowlands are a blighted area within the law. N.J.S.A. 40:55C-3 provides in part:

> "The term 'blighted area' is defined to be that portion of a municipality which by reason of, or because of, any of the conditions hereinafter enumerated is found and determined as provided by law to be a social or economic liability to such municipality:
>
> * * *
>
> "(c) Unimproved vacant land, which has remained so for a period of ten years prior to the determination hereinafter referred to, and which land by reason of its location, or remoteness from developed sections or portions of such municipality, or lack of means of access to such other parts thereof, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital;
>
> * * *
>
> "(e) A growing or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real property therein and other conditions, resulting in a stagnant and unproductive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare."

The above sections fairly describe the condition of the meadowlands. The meadowlands are largely unimproved and vacant, and owing to low elevation, flat topography and tidal intrusion are marshy and thus of limited value in their current condition. Notwithstanding the increasing industrialization of our State with its concomitant expanding population, the meadowlands have not been developed through private capital. Further it is frequently difficult to ascertain ownership of property within the area. Indeed the former Court of Chancery once remarked: "As every Newark lawyer knows, meadow land titles present great difficulties." *Yara Engineering Corp.* v. *Newark,* 136 N.J. Eq. 453, 457 (Ch. 1945). Inasmuch as the meadowlands are blighted as defined in the act the agency may be lawfully created and authorized to reclaim and develop the meadowlands. This conclusion is supported by reference to the declaration of policy in the Redevelopment Agencies Law which speaks of blighted areas as arising from unsanitary buildings, inadequate planning and deleterious land use. N.J.S.A. 40:55C-2. Certainly the existence of a large tract of undeveloped land in close proximity to the City of New York and the northern New Jersey industrial complex is evidence of inadequate planning and deleterious land usage. Development of land to attract tax producing private enterprises is a favored public objective. *New Jersey Turnpike Authority* v. *Township of Washington,* 16 N.J. 38 (1954).

Of course nothing in the Redevelopment Agencies Law requires that a single plan for development of the entire meadowlands be adopted or that every municipality

participating in a regional development agency approve each redevelopment plan of the agency. To the contrary N.J.S.A. 40:55C-17 provides:

> "No agency shall proceed with a redevelopment plan unless: (a) the municipality has first determined that the area to which said plan refers is blighted, which determination shall be made by the governing body of said municipality as provided by chapter one hundred eighty-seven of the laws of one thousand nine hundred and forty-nine; and (b) the governing body of the municipality has first, by ordinance, approved a redevelopment plan after study and recommendation of its planning board, if any, and finds that said plan provides an outline for the replanning, development or redevelopment of said area sufficient to indicate: (1) its relationship to definite local objectives as to appropriate land uses, density of population and improved traffic, public transportation, public utilities, recreational and community facilities and other public improvements; (2) proposed land uses and building requirements in the area; (3) provision for the temporary and permanent relocation of persons living in such areas; by arranging for (unless already available) decent, safe and sanitary dwelling units at rents within the means of the persons displaced from said areas."

We are satisfied from the foregoing that the Legislature intended that the approval of a municipality participating in a regional development agency need be secured only when a particular plan of the agency contemplates development within that municipality. *Cf. Wilson* v. *Long Branch,* 27 N.J. 360 (1958), *cert. denied,* 358 U.S. 873 (1958). We do not believe that the Legislature would empower a municipality to make a determination that lands within other municipalities are blighted.

The answer to your second question is that municipalities which have authorized their local housing authorities to redevelop blighted areas are not foreclosed from participation in the creation of a regional development agency. N.J.S.A. 40:55C-9 provides:

> "No municipality shall create a redevelopment agency under this act if it has authorized the local housing authority to proceed with the redevelopment of blighted areas pursuant to existing law. L. 1949, c. 306, p. 982, par. 9."

There is a valid policy reason for refusing to read the words "regional development agency" into N.J.S.A. 40:55C-9. The obvious design of this section is to prohibit duplication of operation by two governmental authorities in overcoming a particular blight. The Legislature apparently felt that no municipality should have independent overlapping instrumentalities proceeding with intra-municipal redevelopment. See N.J.S.A. 55:14A-35. (No municipality with a redevelopment agency shall authorize a housing authority to carry out a redevelopment project). Since regional development agencies are by definition concerned with inter-municipal problems, creation of such an agency would not duplicate the efforts of a local housing authority already authorized to proceed with a redevelopment plan.

Moreover, N.J.S.A. 40:55C-9 merely forbids creation of a "redevelopment" agency. As already noted the distinction between redevelopment and regional development agencies is entirely clear; thus the above section may not be construed to include the latter. It should be noted that in describing the powers created by the law the Legislature elsewhere used the naked word "agency," without modification.

Indeed in view of the fact that "agency" is defined to "mean a redevelopment agency or a regional development agency created pursuant to this act" express inclusion of the modifying words precludes implied enlargement of this category. *Gangemi* v. *Berry,* 25 N.J. 1 (1957). N.J.S.A. 40:55C-5(a).

In conclusion, therefore, we are of the opinion that a Meadowlands Regional Development Agency may be created to develop the meadowlands and that municipalities which have heretofore authorized their local housing authorities pursuant to N.J.S.A. 55:14A-31 et seq. to redevelop blighted areas may participate in the creation of such an agency.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: MORTON I. GREENBERG
Deputy Attorney General

JUNE 19, 1959

HON. JOHN W. TRAMBURG, *Commissioner*
Department of Institutions and Agencies
135 West Hanover Street
Trenton, New Jersey

FORMAL OPINION 1959—No. 12

DEAR COMMISSIONER TRAMBURG:

We have been asked whether an order placing a child under the guardianship of the State Board of Child Welfare pursuant to N.J.S.A. 30:4C-20 to 22 is "an order * * * terminating parental rights and * * * granting guardianship of the child to such approved agency * * *" within the meaning of R.S. 9:3-23A(3).

Ordinarily, the final hearing on a petition for adoption of a child takes place not less than one year from the date of the institution of the action. R.S. 9:3-25(A). The final hearing in such cases is preceded by a preliminary hearing, R.S. 9:3-24, and by the appointment and report of a "next friend," R.S. 9:3-25, 26. Where certain conditions are satisfied, the final hearing is held within 30 days of the institution of the action. R.S. 9:3-23(B). The third of the four conditions which must be satisfied in order to proceed summarily is:

> "(3) that at least one year prior to the institution of the action the custody of the child had been surrendered to such approved agency by each parent or other person having custody of the child, and that by the terms of such surrender the approved agency had been authorized to place the child for adoption; or *that an order of judgment had been entered by a court of competent jurisdiction terminating parental rights and* transferring custody of the child to such approved agency or *granting guardianship of the child to such approved agency;* * * *" (Emphasis added). R.S. 9:3-23(A)(3).

The State Board of Child Welfare is an approved agency as defined by R.S. 9:3-18(a). See also R.S. 9:3-19.