

1974 WL 27180 (S.C.A.G.)
Office of the Attorney General
State of South Carolina
May 20, 1974

***1 In Re: Sullivan's Island, South Carolina**

Mr. Edward D. Buckley
Messrs. Bailey and Buckley
Attorneys at Law
Post Office Box 881
Charleston, South Carolina 29402

Dear Mr. Buckley:

Your letter of April 9, 1974, recites the statutory origin of the Board of Township Commissioners for Sullivan's Island. 25 STAT. AT LARGE 280 (1906). You inquire whether, in the opinion of this Office, the Secretary of State would be justified in issuing a charter to the Board of Township Commissioners for Sullivan's Island, presumably contemplating the issuance of a charter establishing a recognition of the area comprised within the limits of the present Township as a municipal corporation.

The Act of 1906 and amendments thereto establish the Township as being an entity vested with the general characteristics of a municipality under the laws of this State applicable to incorporated municipal corporations. Despite this fact, it is, however, a township and not a municipal corporation, as contemplated by Title 47 of the Code of Laws for South Carolina, 1962. Having been created by statute, it is my opinion that statutory enactment is necessary in order to bring about a dissolution of the Township. In my opinion, this can be accomplished only by general legislation. I suggest that a statute be drafted applicable to all townships providing for an election on the question of incorporation and providing also that upon a favorable vote therefor being obtained, that the charter of incorporation could then be received from the Secretary of State and that, upon such action, all statutes relating to the township affected would be repealed. Appropriate provision must be made for the continuance of contractual obligations and assumption thereof by the new municipality. This is a matter of constitutional obligation and I assume that the ownership of lots may involve also a similar obligation so that some treatment of this problem will probably be required to be provided for. I am not, however, familiar with the facets of this area but I do not see that it would present an insurmountable problem.

In short, while, as indicated in your letter, the Township possesses nearly all of the earmarks of what is generally regarded as a municipal corporation, it is a creature of statute and is only subject to dissolution by modification of the statute. This, in my opinion, can be accomplished by the enactment of general legislation relating to townships so as to avoid a conflict with the prohibition against special legislation concerning municipalities as is contained in Article VIII of the Constitution.

With best wishes,
Very truly yours,

Daniel R. McLeod
Attorney General

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