

1983 S.C. Op. Atty. Gen. 101 (S.C.A.G.), 1983 S.C. Op. Atty. Gen. No. 83-63, 1983 WL 142733

Office of the Attorney General

State of South Carolina

Opinion No. 83-63

August 30, 1983

\*1 The Honorable John T. Campbell  
Secretary of State  
Post Office Box 11350  
Columbia, South Carolina 29211

Dear Mr. Secretary:

You have inquired if an area seeking to be incorporated must be contiguous. It has been the prior opinion of this Office that areas seeking to be annexed to a municipality must be contiguous and it is the opinion of this Office that the same principle applies to incorporation procedures.

In McQuillin on Municipal Corporations § 3.15f the following principle of law is found:

... because of statutory requirements or otherwise, the territory sought to be incorporated must be contiguous and continuous. In order to be considered contiguous the tracts of land in the territory must touch or adjoin one another in a reasonably substantial physical sense. Territory may be contiguous though divided into two parts separated by a body of water . . .

See also Antieau on Municipal Corporate Law § 1.24; C.J.S Municipal Corporations § 9(b); [Smith v. Sherry](#), 6 N.W. 561 (1880); [Larkin v. Bontatibus](#), 145 A.2d 133 (1958). Cf. [Tovey v. City of Charleston](#), 237 S.C. 475, 112 S.E.2d 872 (1961).

The question of contiguous property is a question of fact that must in each instance be determined on a case by case basis. Cf. McQuillin on Municipal Corporations §§ 3.15, 3.15a; 3.15f; 3.46. McQuillin goes on in the same section previously cited to give some examples of land that would not be considered contiguous.

Territory is not contiguous where the only connection between two tracts is a point at a corner where the boundary lines intersect . . . Held not entitled to incorporation because lacking in homogeneity, was an area divided by nature into two natural drainage systems which would require separate sewer systems, one of which draining into a river, would be an expensive undertaking . . .

Therefore, it would be the opinion of this Office that contiguity is a requirement in South Carolina for incorporation.

It is my understanding that all other opinion requests regarding James Island have now been withdrawn.

Sincerely,

T. Travis Medlock  
Attorney General

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