

1975 WL 29521 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 21, 1975

*1 The Honorable Allen R. Carter
The State Senate
Columbia, South Carolina 29211

Dear Senator Carter:

Thank you for your letter of February 20, 1975, in which you requested an opinion of this office as to whether or not that portion of Edisto Beach to be annexed to Colleton County is contiguous for the purposes of annexation.

South Carolina Code of Laws, 1962, Section 14-101 states in part:

Whenever the citizens of any section of one county desire to be incorporated within the limits of an adjoining county . . .
(Emphasis added)

The statute speaks in terms of adjoining as opposed to contiguous; however, it has been stated by way of dictum in the case of [Tovey v. City of Charleston](#), 237 S.C. 475 (1961) that there generally must be contiguity even in the absence of a statutory requirement. The question of whether or not two pieces of land separated by a navigable stream would be considered contiguous was dealt with in the Tovey case. In that case the court was faced with annexation of land in Charleston that was separated by the Ashley River. The court stated 'we do not think the fact they are separated by a navigable stream breaks the contiguity.' The court cited and distinguished the case of [Ocean Beach Heights v. Brown-Crummer Investment Co.](#), 302 U.S. 614, 58 S.Ct. 385, 82 L.Ed. 478 which held that land separated by a bay could not be annexed. However, this case can be even further distinguished on the basis of the state statutes involved in that case which apparently specifically prohibited annexation of detached tracts of property. See also 49 A.L.R.3d 589, 615 [Municipal Corporation-Annexation](#) which annotates cases holding territory separated by a river to be contiguous.

Therefore, it would be the opinion of this office that the property to be annexed to Colleton County would be contiguous for purposes of annexation.

Very truly yours,

Treva G. Ashworth
Assistant Attorney General

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