

Deannexation/Annexation Legal Process

Background

New Jersey law provides that land in one municipality may be annexed to another municipality that shares a common border. To do so, a petition must be presented to the governing body of the municipality that the petitioners seek to join. The petition must be signed by at least 60% of legal voters from the originating municipality and consented to by at least two-thirds of their governing body.

As many are aware, South Seaside Park has petitioned for annexation to become part of Seaside Park. Initially, Berkeley Township did not consent to the petition. However, the New Jersey Supreme Court reviewed the decision and determined that South Seaside Park had met the requirements necessary to present their petition for annexation to Seaside Park.

What happens next?

Seaside Park must carefully and objectively gather information regarding the potential impact of voting **yes** or **no** to accept South Seaside Park as part of Seaside Park.

First,

South Seaside Park's petition in writing will be presented to the governing body. It must specifically identify the boundaries of the land the petitioners want to have become part of Seaside Park. The petition must be

- a) signed by at least 60% of the legal voters residing on the land in question; and
- b) verified by one of the signers; and
- c) have attached the oath of the Berkeley tax assessor of the municipality in which said land is located, or of some other person having access to the assessor's books, setting the assessed value of the real estate contained within the boundaries for the preceding year, and the amount of real estate assessed to any of the persons whose names are signed to such petition; and
- d) have attached a certified copy of a resolution adopted by two-thirds of the full membership of the governing body of the municipality in which the land is located, consenting to the annexation.

Note: Although Berkeley did not consent, the New Jersey Supreme Court stated that the "decision of the Supreme Court has the same legal effect that would result had the Township consented."

Second,

The Seaside Park governing body may, in its discretion, by ordinance adopted by a two-thirds vote, annex the land specifically described in the petition to the municipality. In order to responsibly and objectively vote in this matter, the governing body must consult with financial, engineering, planning, legal, and many other professionals to make competent, informed decisions in the best

interest of all parties. While there is no specific timeframe for when the governing body must vote, the governing body wishes to proceed with their careful consideration of all relevant data as expeditiously as possible.

Important Factors

- 1) While the decision has not yet been made, Seaside Park must be fully prepared in the event that there is a two-thirds majority vote in favor of annexation. Under New Jersey law, the accompanying changes to annexation are immediate and encompass a broad range of public works, emergency services, and other considerations.
- 2) A two-thirds majority vote of “yes” means that, as soon as the ordinance is effective:
 - a. The land described in the petition becomes a part of Seaside Park and is immediately subject to all Seaside Park ordinances. This requires preparation for:
 - i. Garbage collection;
 - ii. Water utilities and metering;
 - iii. Student population needs;
 - iv. Emergency services;
 - v. Beach replenishment; and
 - vi. Other public works needs and considerations.
 - b. The Seaside Park Municipal Clerk files a certified copy of the ordinance with the County Clerk and the Secretary of State.
 - c. The official map of Seaside Park must be revised.
 - d. Seaside Park becomes liable to pay a portion of debt attributable to the South Seaside Park section of Berkeley. The amount is determined by the following:
 - i. Seaside Park appoints a committee of three people and decides compensation for the members.
 - ii. On the Monday after the annexation ordinance becomes effective, the Seaside Park committee meets with a committee of three appointed by Berkeley at 10:00 a.m. Berkeley will state an account of all the property, debts, judgments, claims and liens, actions and rights of action belonging to Berkeley. Berkeley will also state an account of all the debts outstanding, and the proper proportion or share to be borne and paid by Seaside Park (i.e. the portion attributable to South Seaside Park section), and the methods in and times at which payment should be made. Seaside Park’s credit is pledged for the final payment of the indebtedness apportioned to it. The amount and terms must be agreed to by four out of six of the joint committee members.
 - iii. The joint committee has 60 days from the date of first meeting to agree and file a report. If there is no agreement, the matter proceeds to court.

1. If the report is not made and filed within 60 days of the first meeting, Seaside Park must apply to the Superior Court for an order appointing three commissioners to take the place of the committee.
2. The judge's commissioners make their report within 30 days from the date of their appointment. The report of the majority of the commissioners will have the same force and effect as if a report had been made and filed by the committee.
3. The judge's commissioners are paid by Seaside Park and Berkeley. The amount paid is fixed by the judge.