

Town of Baldwin is independent municipality

Number: INFORMAL

Date: November 03, 1999

Mr. Robert W. Marx
Chief, Geography Division
Bureau of the Census
Washington, D.C. 20233-0001

Dear Mr. Marx:

This office is in receipt of a letter to the Governor of the State of Florida requesting the opinion of the Attorney General for the State of Florida as to the status of the Town of Baldwin as an independent municipality.

This office has been advised by the Town of Baldwin that its application for a Community Development Block Grant has been denied by the Department of Community Affairs based upon the town's classification by the United States Census Bureau. You have indicated that an opinion from the Attorney General is necessary to provide a definitive determination regarding whether Baldwin exists as an independent municipality within Duval County and, thus, is not dependent upon the municipal government of Jacksonville.

The Florida Legislature passed a series of acts during the 1967 session consolidating the government of Duval County, the City of Jacksonville, the City of Jacksonville Beach, the City of Atlantic Beach, the City of Neptune Beach, the Town of Baldwin, the Duval Air Improvement Authority, the east Duval County Mosquito Control District, the northeast Duval County Mosquito Control District, and all boards, bodies and officers of these governments into a single consolidated government. That consolidated government succeeded to all the properties, rights, privileges, powers, franchises and immunities and was subject to all the liabilities and obligations of the former governments.[1] However, later in that same session, in Chapter 67-1535, Laws of Florida, the Legislature restored to "the Beaches" and the town of Baldwin the independent powers which the first act had taken away.

Following the 1967 legislative acts, the Florida Supreme Court addressed the status of the former governments of the town and cities within Duval County. In *Jackson v. Consolidated Government of City of Jacksonville*, 225 So. 2d 497, 503 (Fla. 1969), the Court passing on the constitutionality of the special act creating the consolidated government also determined that "the consolidated city government will extend throughout the territory, but . . . one or more municipal or local governments in the territory may continue in existence." The Court recognized that the legislation designated the areas which were formerly municipalities as "urban services districts."

Subsequently, in *Albury v. City of Jacksonville Beach*, 295 So. 2d 297 (Fla. 1974), the Court affirmed that

"the Beaches and Baldwin continue to exist as quasi-municipal corporations . . . empowered to exercise all municipal functions which they were permitted to perform under their original charters and the general laws of the State immediately prior to consolidation; and, that they are corporate entities having the same rights as duly constituted municipal corporations to *share in, receive, and expend revenues allocable to municipal corporation by both the federal and state governments.*" (e.s.)

In 1978, the Legislature, recognizing the decision in *Albury* and seeking to remove inconsistencies and conflicting provisions from the charter of the City of Jacksonville and harmonize its provisions with the court cases, enacted Chapter 78-536, Laws of Florida. That special act provides that the consolidated government of Jacksonville has jurisdiction as a chartered county government and extends territorially throughout Duval County, "except in the cities of Jacksonville Beach, Atlantic Beach and Neptune Beach and the town of Baldwin." [2] The act further provides:

"The cities of Jacksonville Beach, Atlantic Beach and Neptune Beach and the town of Baldwin are continued as municipalities having all governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and shall be treated, considered and dealt with as municipalities under the constitution and laws of the State of Florida and shall be entitled to exercise the same functions, powers and duties granted to municipalities under the general laws and constitution of the State of Florida." [3] the language of the 1978 legislation clearly recognizes the Town of Baldwin as an independent municipality with the rights, powers, and duties of Florida municipalities."

The Legislature readopted the charter for the City of Jacksonville in Chapter 92-341, Laws of Florida, and expressly recognized that the consolidated government could not act on "any subject affecting the powers, rights, duties, and abilities of the Cities of Jacksonville Beach, Atlantic Beach, and Neptune Beach, and the Town of Baldwin." [4] The act also notes that the consolidated City of Jacksonville "may not exercise any municipal power within the Cities of Jacksonville Beach, Atlantic Beach, Neptune Beach, or the Town of Baldwin . . . but may exercise any county power throughout Duval County." [5]

Thus, I am of the opinion that the Town of Baldwin is an independent municipality and is not dependent upon or part of the municipal government of the consolidated City of Jacksonville.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/t

[1] See Ch. 67-1320, Laws of Florida.

[2] Section 1.01(b), Art. I, s. 1, Ch. 78-536, Laws of Florida.

[3] Section 1.02(a), Art. I, s. 1, Ch. 78-536, Laws of Florida.

[4] Section 3.01(e)(1)(iv), Art. III, s. 1, Ch. 92-341, Laws of Florida.

[5] Section 3.01(f), Art. III, s. 1, Ch. 92-341, Laws of Florida.