

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY



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Legal Opinion 2009-02

To: Honorable Karl F. Dean
Mayor of Metropolitan Government
100 Metropolitan Courthouse
Nashville, Tennessee 37201

Date: July 10, 2009

You have requested a legal analysis of the following issue:

QUESTION

May the City of Forest Hills legally create its own police department or enter into a contract to obtain police services from another municipality?

ANSWER

It is the opinion of the Department of Law that the Metropolitan Charter authorizes only the Metropolitan Police Department to provide police services in Forest Hills as it has for the past forty-six years. Forest Hills did not have a police department at the time of consolidation of municipal services in 1963 and, in fact, has never had a police department. The Metropolitan Government, "a distinctly new and distinctly different" form of local government in 1963, assumed responsibility for and the authority to provide that municipal service. When the Metropolitan Government was created, it became the dominant municipal government throughout the entire General Services District, which includes Forest Hills. Forest Hills is preempted from establishing a police department and from contracting with any other municipality, other than the Metropolitan Government, for police services. Pursuant to the Metropolitan Code, Forest Hills may contract with the Metropolitan Government for additional Metropolitan Government police services.

BACKGROUND INFORMATION

Prior to April 1, 1963, the area within Davidson County had several political subdivisions. The largest were the Davidson County government and the City of Nashville government. Additionally, there were six smaller cities: Belle Meade, Berry Hill, Forest Hills, Goodlettsville, Lakewood (Dupontonia), and Oak Hill. On April 1, 1963, the Metropolitan Charter for the Metropolitan Government of Nashville and Davidson County became effective. On that date, the governmental and corporate function of the City of Nashville and the County of Davidson were consolidated into the Metropolitan Government.¹

The Metropolitan Government is a very different political entity. It is not like other Tennessee counties and it is not like other municipal governments. The Metropolitan Government was created as the result of a concerted effort to fulfill “the unique and urgent needs of a modern metropolitan area.”² These efforts included:

- The state-wide passage of a Constitutional Amendment in 1953 authorizing metropolitan governments,³
- A private act authorizing the creation of the Metropolitan Charter Commission,⁴
- A countywide election to ratify the charter commissioners named by the private act,
- Public acts enabling creation of metropolitan governments,⁵ and
- The approval of the Metropolitan Charter by voters in the City of Nashville and in Davidson County including the voters in Forest Hills.⁶

As do many other Tennessee cities, the six smaller cities, all operate under *general* state law, a city manager-commission charter (City Manager Charter).^{7 8} This

¹ Metropolitan Charter § 1.01

² T.C.A. § 7-1-102.

³ Constitutional Amendment No. 8, Amending Article XI, Section 9, by adding a new paragraph:

The *General Assembly may provide* for the consolidation of any or all of the governmental and corporate functions now or hereafter vested in municipal corporations with the governmental and corporate functions now or hereafter vested in the counties in which such municipal corporations are located; provided, such consolidations shall not become effective until submitted to the qualified voters residing within the municipal corporation and in the county outside thereof, and approved by a majority of those voting within the municipal corporation and by a majority of those voting in the county outside the municipal corporation. TENN. CONST. art. XI, §9, ¶9. (emphasis added)

⁴ Chapter 408, Private Acts of 1961.

⁵ Chapter 120, Public Acts of 1957; Chapter 199, Public Acts of 1961.

⁶ *Frazier v. Carr*, 210 Tenn. 565, 568-571, 360 S.W.2d 449, 450-451 (Tenn. 1962).

⁷ *Tennessee Code*, Title 6, Chapters 18 through 22.

⁸ The powers of an incorporated municipality may be changed by an act of the state legislature. The Tennessee Constitution, Article XI, Section 8 provides that:

charter authorizes a municipality to carry out traditional municipal functions including, amongst others, establishing a city school system, maintaining streets and roads, and operating a police department.⁹ ¹⁰ Four of the smaller cities operated a police department prior to consolidation. Forest Hills did not; it has never had a police department.¹¹

The territory under the jurisdiction of the Metropolitan Government includes “the total area of Davidson County.”¹² There are two service districts within the geographical limits of the Metropolitan Government – the General Services District (GSD) and the Urban Services District (USD).¹³ The GSD consists of “the total area of the metropolitan government.”¹⁴ The smaller cities, including Forest Hills, are included within the GSD.¹⁵

The relationship between the general law for City Manager Charters, the one that governs Forest Hills, and the laws creating the Metropolitan Government results in a striking difference in Forest Hills’ authority compared to a city manager government outside the area of the Metropolitan Government. The consolidation of the city and county governments resulted in the creation of a “distinctly new and distinctly different governmental entity.”¹⁶ As recently as last year, the unique nature of the Metropolitan Government was recognized again by the Court of Appeals:

The creation of the Metropolitan Government of Nashville and Davidson County was a bold and innovative move. “Nashville became a national pioneer in Metropolitan organization. Although other cities had partial consolidation, Nashville was the first city in the country to achieve true consolidation.”¹⁷

No corporation shall be created or its powers increased or diminished by special laws but the General Assembly shall provide by general laws for the organization of all corporations, hereafter created, *which laws may, at any time, be altered or repealed.*” (emphasis added).

⁹ T.C.A. § 6-19-101; T.C.A. §§ 6-21-601 through 604.

¹⁰In 2001, the Tennessee Supreme Court held that a city manager municipality’s powers include necessarily implied powers that go beyond those functions enumerated in Chapters 18 through 22. *Southern Constructors, Inc. v. Loudon County Bd. of Educ.*, 58 S.W.3d 706, 712 n.5 (Tenn. 2001).

¹¹ See the proposed stipulations filed by the smaller cities in *Lakewood* case. *Lakewood et al. v. Metropolitan Government*, No. M2007-01021-COA-R3-CV, 2008 WL 5396241 (Tenn. Ct. App. Dec. 22, 2008). Forest Hills did not have a police department when the Metropolitan Charter was adopted, had never had one, and has not had one for the last forty-six years.

¹² Metropolitan Charter § 1.02; T.C.A. § 7-2-108(2).

¹³ T.C.A. § 7-2-108(5).

¹⁴ Metropolitan Charter § 1.03; T.C.A. § 7-2-108(5).

¹⁵ T.C.A. § 7-2-107(e).

¹⁶ *Frazier v. Carr*, 360 S.W.2d at 457.

¹⁷ *Lakewood et al. v. Metropolitan Government*, No. M2007-01021-COA-R3-CV, 2008 WL 5396241, *7, n.7 Citing Carole Bucy, *Short History of Metropolitan Government for Nashville Davidson County*, <http://www.library.nashville.org/research/res-nash-history-metrohistory.asp>.

I. THE METROPOLITAN GOVERNMENT IS THE PRIMARY MUNICIPAL GOVERNMENT WITHIN THE GENERAL SERVICES DISTRICT.

Within the GSD, the Metropolitan Government has significantly greater powers than had previously been given to a county government; it has the increased authority of a municipal government throughout the GSD. As provided in the Charter the distinctly new and different local government may provide:

. . . those governmental services which are *now, or hereafter may be*, customarily furnished by a county government in a metropolitan area.

...

*Nothing in this section shall be deemed to limit the power of the metropolitan government to exercise other governmental functions in either the urban services district or the general services district, or to preclude new and additional services in either the urban services district or the general services district.*¹⁸

In *Metropolitan Government of Nashville and Davidson County v. Allen* the Tennessee Supreme Court stated:

. . . the Metropolitan Government of Nashville and Davidson County has now taken on the characteristics of a city and exercises and performs most of the services rendered by municipal corporations. . . . The effect of thus creating this Metropolitan Government is to invest the government authorities with the power of local government over the inhabitants of the entire area. Such an act confers powers which did not exist before.¹⁹

The issue in *Allen* was whether the Metropolitan Government was immune from liability for a defective sidewalk located outside the USD. Prior to enactment of the Governmental Tort Liability Act,²⁰ counties, as arms of the state, had sovereign immunity against negligence actions. Municipalities, on the other hand, did not enjoy sovereign immunity. The Court rejected the Metropolitan Government's argument that it was immune from liability because its powers within the GSD were analogous to those of a county government. The Court held that the Metropolitan Government was not immune because it has the characteristics of a city and performs most of the services rendered by municipalities.²¹ The Court also noted that the Metropolitan Government has powers that did not exist before consolidation.²²

¹⁸ Metropolitan Charter § 1.05 (emphasis added).

¹⁹ *Metropolitan Government of Nashville and Davidson County v. Allen*, 415 S.W.2d 632, 636 (Tenn. 1967) (emphasis added).

²⁰ The Tennessee Governmental Tort Liability Act would not be enacted until 1973. Tennessee Code, Title 29, Chap. 20.

²¹ *Id.*

²² *Id.*

II. GENERAL STATE LAW YIELDING TO THE METROPOLITAN CHARTER.

A. AUTHORITY OF THE METROPOLITAN CHARTER.

The general law providing the uniform City Manager Charter was adopted in 1921.²³ This was prior to:

- o The 1953 amendment to Article XI, Section 9 of the Tennessee Constitution authorizing the creation of consolidated governments,
- o The 1957 enabling legislation for a consolidated government (TENNESSEE CODE, TITLE 7, CHAP. 1-3), and
- o The 1962 referendum adopting a metropolitan form of government for Nashville and Davidson County.

The Supreme Court has noted that the “predominant intent” of the enabling legislation for metropolitan governments is “to provide for the consolidation of ‘all,’ or ‘substantially all,’ of the governmental and corporate functions of county and city governments into one new metropolitan government.”²⁴ The Supreme Court also stated that the purpose of consolidated government, “an entirely new concept of government,” is to “*eliminate duplication and overlapping of duties and services* by which economic savings to taxpayers will be realized.”²⁵ In order to achieve these goals, the courts have held that the Metropolitan Charter supersedes conflicting general law. There are a number of cases recognizing that the general state law may be required to yield.

In 1963, the Tennessee Supreme Court addressed the conflict between the Clerk of the County Court general laws and the Metropolitan Charter:

The office of Clerk of the County Court is provided for in general terms by Section 13 of Article 6 of the Constitution of Tennessee, but the duties and functions of said office are prescribed by law. (See T.C.A. § 67-4701 for duty to assess and collect the tax in question.) *Since such duties and functions are prescribed by law they may be repealed, abolished or transferred by a new and different law provided it be of equal dignity, with the law fixing such duties and responsibilities.*

The law, T.C.A. § 6-3701 et seq. is a general law and it permits transference of duties and functions of governing bodies of said county and said municipal corporation, or the officers thereof.

²³ Chapter 173, Public Acts of 1921.

²⁴ *Glasgow v. Fox*, 383 S.W.2d 9, 11-12 (Tenn. 1964) Citing Sect. 2, Chap. 120, Public Acts of 1953.

²⁵ *Metropolitan Government v. Poe*, 383 S.W.2d 265, 277 (Tenn. 1964) (emphasis added.)

...

[I]f the city and county, being consolidated, do possess the power (i.e., the function) then the charter may assign it to such metropolitan officer for administration as the charter may determine.²⁶

In *Robinson v. Briley* the Tennessee Supreme Court upheld the transfer of certain functions and duties by the Metropolitan Charter from the County Trustee, where they had been placed by general law, to the Metropolitan Treasurer as provided in the Charter.²⁷ In reaching this decision, the Court recognized that consolidation must eliminate certain powers from previously existing entities:

Of course, it would be impossible to consolidate any local governmental functions if all of the earlier general laws establishing unconsolidated municipal and county agencies are applicable to counties adopting Metropolitan Government ... these changes are pure common sense and are necessary to make a combined government thus function²⁸

The Supreme Court has also noted that even the duties of the sheriff, a constitutional office, may be transferred to another office by the Metropolitan Charter:

Under Article 2.01(36) certain powers are given to the Metropolitan Government, including the power to create, alter or abolish departments, boards, commissions, offices and agencies and to confer upon the same necessary and appropriate authority; but *when any power is vested by the Charter in a specific officer, board, commission or other agency, the same shall be deemed to have exclusive jurisdiction within the particular field.* Section 16.05 makes such an exclusive vestment in the Chief of Police.²⁹

The consolidated government enabling statutes are remedial legislation that courts are to construe liberally to utilize the constitutional power granted for the purposes of consolidation.³⁰ As recognized by the Supreme Court in the *Allen* case, the statutes enabling metropolitan governments confer “powers which did not exist before.”³¹ Courts have construed the consolidation legislation broadly so that even general laws applicable throughout the rest of the state are not applied within the area of the Metropolitan Government when those general laws conflict with the purposes of consolidation and the Metropolitan Charter.

²⁶ *Winter v. Allen*, 367 S.W.2d 785, 789 -790 (Tenn. 1963) (emphasis added).

²⁷ *Robinson v. Briley*, 374 S.W.2d 382 (Tenn. 1963).

²⁸ *Id.* at 425-426.

²⁹ *Metropolitan Government v. Poe*, 383 S.W.2d 265, 275 (Tenn. 1964) (emphasis added).

³⁰ T.C.A. § 7-1-102(b).

³¹ *Metropolitan Government v. Allen*, 415 S.W.2d at 636.

B. THE COMPROMISE: METROPOLITAN CHARTER SECTION 18.15.

The first sentence in Section 18.15 of the Metropolitan Charter states:

Any city in Davidson County not abolished by this Charter shall continue to exist and to function *the same as* prior to adoption of this Charter; except, that no such city shall extend its boundaries by annexation of any area of the metropolitan government. (emphasis added)

This provision of the Metropolitan Charter authorizes the smaller cities to continue to function *the same as* they functioned prior to adoption of the Charter. This limitation on functioning of the smaller cities is distinctly different from the broad grant of authority and responsibility given to the Metropolitan Government. The Metropolitan Government is to provide both present and future services:

The metropolitan government may exercise within its general services district those powers and functions which have heretofore been exercised by the County of Davidson or the City of Nashville, or both, and shall supply the residents of said general services district with those governmental services which are now, or *hereafter may be*, customarily furnished by a county government in a metropolitan area.

...

*Nothing in this section shall be deemed to limit the power of the Metropolitan Government to exercise other governmental functions in either the urban services district or the general services district, or to preclude new and additional services in either the urban services district or the general services district.*³²

The compromise in the Metropolitan Charter was to permit the smaller cities to continue to function the same as before consolidation - not less than before and not more than before. The "same as" means identical.³³

The enabling legislation for the Metropolitan Government and the Metropolitan Charter are specifically authorized by the Constitution.³⁴ Any ambiguity in analyzing the Charter phrase, "the same as" as that phrase relates to Forest Hills, must be resolved through a liberal construction supporting the purposes of

³² Metropolitan Charter § 1.05 (emphasis added).

³³ "same" - **1 a:** resembling in every relevant respect **b:** conforming in every respect — used with *as* **2 a:** being one without addition, change, or discontinuance : identical **b:** being the one under discussion or already referred to **3:** corresponding so closely as to be indistinguishable **4:** equal in size, shape, value, or importance — usually used with *the* or a demonstrative (as *that, those*) in all senses. *Merriam-Webster Online Dictionary*. 2009. See *Serono Laboratories, Inc. v. Shalala*, 158 F.3d 1313, 1318 (D.C.Cir. 1998).

³⁴ Tenn. Const. art. XI, §9, ¶9.

consolidation and the Constitutional provision that authorized the Metropolitan Government.³⁵ In *Poe*, the Supreme Court stated:

[T]he Charter [was] adopted pursuant to a *general* law which, in turn, was specifically authorized by a constitutional amendment. The Charter bears the approval of the people in a plebiscite³⁶ conducted for that purpose in the area covered by the Metropolitan Government. All power is inherent in the people and all free governments are founded on their authority, and instituted for their peace, safety and happiness.³⁷

The people voted to eliminate duplication and overlapping of duties and services by adopting a metropolitan government. The Metropolitan Charter is to be construed to achieve that purpose. The powers granted by the smaller cities' charters, created by general laws of the state, are limited and superseded by the Metropolitan Charter when they are in conflict.

C. THE METROPOLITAN CHARTER PREEMPTS THE GENERAL LAW OF THE CITY MANAGER-COMMISSION CHARTER OF FOREST HILLS.

State law mandates that the Metropolitan Government have all the powers of a municipality with some exceptions.^{38 39} The Metropolitan Charter specifies the functions to be provided throughout the GSD.⁴⁰ One of these functions is police.

A rule of municipal law is that "two lawfully and fully organized municipal corporations may not exercise their respective functions over the same population and territory at the same time."⁴¹ This principle of municipal law is reflected in Chancellor C. Allen High's 1975 order in *City of Berry Hill v. Metropolitan Government*.⁴² In determining that the City of Berry Hill had the authority to place traffic control devices in the City of Berry Hill, Chancellor High ruled that:

³⁵ T.C.A. § 7-1-102(b).

³⁶ Plebiscite: 1. A binding or nonbinding referendum on a proposed law, constitutional amendment, or significant public issue. *Black's Law Dictionary* (8th ed. 2004).

³⁷ *Metropolitan Government v. Poe*, 383 S.W.2d at 276.

³⁸ The limitations found in Chapters 1-6 of Tennessee Code, Title 7, include: retail sale of liquor only allowed in the USD (T.C.A. § 7-3-303); state courts not affected by consolidation (T.C.A. § 7-3-311); and exclusive jurisdiction in state court for certain enumerated criminal offenses. (T.C.A. § 7-3-312)

³⁹ T.C.A. § 7-2-108(a)(1); *Doyle v. Metropolitan Government of Nashville and Davidson County*, 225 Tenn. 496, 471 S.W.2d 371, 374 (Tenn. 1971).

⁴⁰ Metropolitan Charter § 1.05.

⁴¹ *Beyer v. City of Athens, Tennessee*, 249 F. 849, 852 (6th Cir. 1918); see also 1 Local Government Law § 5:8 ("Courts have recognized a 'public policy against duplication of public functions' by 'two municipal corporations exercising the same functions in the same territory at the same time.'"); 2 McQuillin Mun. Corp. §7.8 (3rd ed.)

⁴² Davidson County Chancery Part II, Case No. A-3062. Order entered March 3, 1975. (Min.Bk. 92, page 321)

1. The City of Berry Hill exercised exclusive jurisdiction over its traffic control devices prior to the adoption of the Metropolitan Charter and since the adoption of the Charter.
2. The City of Berry Hill has a superior right to regulate traffic control within its corporate limits, to the exclusion of the Metropolitan Government.

The *City of Berry Hill* decision supports the Metropolitan Government's interpretation of Metropolitan Charter § 18.15. The Metropolitan Government has always exercised exclusive jurisdiction over police service within the area of Forest Hills. *City of Berry Hill* supports the conclusion that the Metropolitan Government has the exclusive right to provide law enforcement in Forest Hills.

Similarly, in the *City of Goodlettsville v. Members of the Board of Education*,⁴³ the Tennessee Court of Appeals rejected the proposition that a smaller city could establish a school district in its city. The Metropolitan Government had established a consolidated school system that encompassed Goodlettsville. The City of Goodlettsville argued that its City Manager Charter form of government authorized it to create a new city school system.⁴⁴ The Court of Appeals rejected that argument. The Court of Appeals noted:

Since the City of Goodlettsville was chartered in 1958, and appointed its first City Manager on September 1, 1958, it has provided the services of fire and police protection, garbage collection, street lighting and maintenance, zoning and planning, city water, sewerage, parks and a municipal court system and these services have continued unaffected by the adoption of the metropolitan form of government by Nashville and Davidson County . . . ⁴⁵

In affirming the reasoning of the Chancellor, the Court said: "Where the [metropolitan government] enabling act and the [Metropolitan] Charter enacted under it conflict with the general law [city manager-commission charter statutes] the general law gives way to the metropolitan form of government."⁴⁶

Metropolitan Charter § 18.15, adopted by all the people within the area of the Metropolitan Government, is the compromise that determines whether a local

⁴³ *City of Goodlettsville v. Members of the Board of Education, et al.* (Tenn. Ct. App. 1975)(*cert. denied*, June 16, 1975)(unpublished)(Chancery Court, Part I, Case No. A-1360)

⁴⁴ The City cited T.C.A § 6-1901 (30) [now § 6-19-101(30)] and § 6-1903 [now § 6-19-103].

⁴⁵ *Goodlettsville*, p. 3.

⁴⁶ *City of Goodlettsville* citing *Frazer v. Carr*, 210 Tenn. 555, 360 S.W. 2d 449; *Robinson v. Briley*, 213 Tenn. 413, 374 S.W.2d 382; *Winter v. Allen*, 212 Tenn. 84, 367 S.W. 2d 785.

government will be allowed to provide a governmental service when both the smaller cities' charters and the Metropolitan Government's Charter authorize the same service. If the smaller city had authority and was providing it in 1963, the smaller city may still provide it. When the Metropolitan Government is providing a municipal service to a smaller city not being provided by the smaller city on April 1, 1963, the smaller city's authority to perform that function is superseded and it may not provide that function. As the Metropolitan Government is providing police service in Forest Hills and Forest Hills is not, Forest Hills is preempted from duplicating this service.

It is noteworthy that the Court of Appeals recent decision in *Lakewood v. Metropolitan Government* does not address the issue being considered here - the implementation of a duplicative municipal service by Forest Hills that is being provided by the Metropolitan Government. In *Lakewood*, the Court of Appeals addressed, and sustained, the Metropolitan Government's authority to consider the smaller cities' fiscal resources when allocating Metropolitan Government services to the smaller cities.⁴⁷

⁴⁷ To answer the question, the Court focused on the second paragraph of Metropolitan Charter § 18.15, not the first paragraph. *City of Lakewood* held that the Metropolitan Government may reduce funding for services it provides the smaller cities based on the smaller cities funding from state aid and other distributable moneys not derived from local taxation. See *City of Lakewood v. Metropolitan Government*, *6-*7.

III. FOREST HILLS MAY NOT CONTRACT FOR POLICE SERVICES EXCEPT WITH THE METROPOLITAN GOVERNMENT.

While several laws in Tennessee authorize governmental entities to contract with each other, none authorize Forest Hills to contract with another city.⁴⁸ As related to a metropolitan government, Section 7-1-107 of the Tennessee Code provides:

Nothing in chapters 1-3 of this title shall be construed to alter, abridge, or abrogate any provision of §§ 5-1-113 and 49-2-503 or any other law, practice, custom or tradition with respect to contractual, cooperative, unilateral or other devices for simplifying or expediting municipal or county government.⁴⁹

As a prerequisite to applicability, T.C.A. § 7-1-107 requires that the result simplify or expedite service. Duplication of police service would not meet this criterion.⁵⁰

Metropolitan Charter Section 18.15 allows the smaller cities to contract with the Metropolitan Government for services. Forest Hills, therefore, may contract with the Metropolitan Government to provide it with governmental services.⁵¹ Forest Hills may not, however, contract with another political entity to provide police services. The Metropolitan Government has the authority and responsibility to provide police services and has provided police services in Forest Hills since the inception of the Metropolitan Government. The Metropolitan Charter has assigned that function to the Metropolitan Police Department and Charter Section 18.15 does not provide an exception for Forest Hills.⁵² Under the Metropolitan Charter, the Metropolitan Police Department is the only law enforcement department that may exercise police powers within Forest Hills.⁵³

⁴⁸ T.C.A. § 5-1-113 authorizes a county to contract with a city for joint service and is inapplicable to Forest Hills' authority to contract for police service from another city. T.C.A. § 49-2-503 relates to the disposition of county special school district taxes and is inapplicable. A statute enacted after consolidation, T.C.A. § 6-54 307(a) (1), is also inapplicable. It allows mutual aid agreements between municipalities to "furnish one another assistance in law enforcement." Each party to the agreement must be able to furnish law enforcement services and Forest Hills may not. Similarly inapplicable is T.C.A. § 12-9-104, first adopted in 1967, that allows a municipality to contract with another political subdivision for joint action using a power that each is authorized to perform. Forest Hills is not authorized.

⁴⁹ T.C.A. § 7-1-107.

⁵⁰ *Metropolitan Government v. Poe*, 383 S.W.2d at 277.

⁵¹ Forest Hills may enter into a contract with the Metropolitan Government to obtain additional police services pursuant to Metropolitan Code Section 2.44.210. If Forest Hills wants police officers to enforce its ordinances, it may enter into an agreement with the Metropolitan Government.

⁵² *Metropolitan Charter* § 8.202.

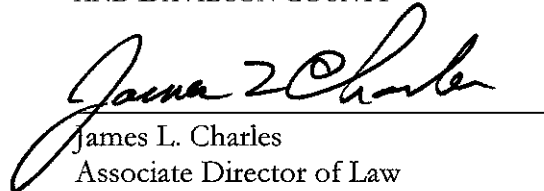
⁵³ *Metropolitan Charter* § 2.01(36).


CONCLUSION

The fundamental purpose of the Metropolitan Government was to eliminate duplication and overlapping of duties and services. It is contrary to this purpose and the Metropolitan Government's role as the principal municipality throughout the GSD for Forest Hills to initiate a function it did not provide before consolidation as this would be a duplicative and overlapping service. "Common reason abhors the unnecessary duplication of government services."⁵⁴ The laws supporting the purposes of consolidation will prevail over general laws in conflict with this purpose.

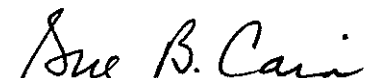
Forest Hills did not have a police department on April 1, 1963. The Metropolitan Charter allows the smaller cities to exercise the functions under the City Manager Charter just as they did on April 1, 1963. The Metropolitan Government began providing the police service in Forest Hills forty-six years ago. Forest Hills does not have the authority as a City Manager Charter government *within the area of the Metropolitan Government* to provide police service or to contract with another city for police service. Forest Hills may contract with the Metropolitan Government for police service including the enforcement of its ordinances.

THE DEPARTMENT OF LAW OF THE
METROPOLITAN GOVERNMENT OF NASHVILLE
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B-009968

⁵⁴ *Cobb County v. Allan*, 236 Ga. 910, 911, 226 S.E. 2d 57, 59 (Ga. 1976).