

OPINION NO. 68-071

Syllabus:

A community improvement corporation organized pursuant to Chapter 1724, Revised Code, does not have authority to acquire and improve real estate which is to be leased, sold, or leased with option to purchase to the county board of library trustees;

To: Gene Henry, Geauga County Pros. Atty., Chardon, Ohio
By: William B. Saxbe, Attorney General, April 17, 1968

Your request for my opinion states that your county has a community improvement corporation organized pursuant to Chapter 1724, Revised Code, and you ask whether the community improvement corporation can be designated as the agent for the county for civic development. By reason of a subsequent communication, I understand that by "civic development" the community improvement corporation proposes to acquire real estate, construct a building thereon suitable for library purposes and then lease the land and building to the county board of library trustees. In reality, your question is whether a community improvement corporation may acquire real estate and construct a building thereon which is to be leased to the county board of library trustees.

Your request also asks whether the interest paid upon bonds issued by a community improvement corporation pursuant to Sections 1724.02 and 1724.10, Revised Code, is subject to the federal income tax.

Section 1724.01, Revised Code, authorizes the organization of corporations not for profit for the purpose of advancing, encouraging and promoting the industrial, economic, commercial and civic development of a community or area. The not-for-profit corporations are vested with the powers specified in paragraphs (A) through (H), inclusive, of Section 1724.02, Revised Code. In respect to a community improvement corporation's dealing in real estate and making improvements thereto, paragraphs (C) and (D) of Section 1724.02, supra, provide that the corporation shall have the power:

"(C) To purchase, receive, hold, lease, or otherwise acquire and to sell, convey, transfer, lease, sublease, or otherwise dispose of real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto and the use thereof, including but not restricted to, any real or personal property acquired by the corporation from time to time in the satisfaction of debts or enforcement of obligations:

"(D) To acquire the good will, business, rights, real and personal property, and other assets, or any part thereof, or interest therein, of any persons, firms, partnerships, corporations, joint stock companies, associations, or trusts, and to assume, undertake, or pay the obligations, debts, and liabilities of any such person, firm, partnership, corporation, joint stock company, association, or trust; to acquire improved or unimproved real estate for the purpose of constructing industrial plants or other business establishments thereon or for the purpose of disposing of such real estate to others in whole or in part for the construction of industrial plants or other business establishments; and to acquire, construct or reconstruct, alter, repair, maintain, operate, sell, convey, transfer, lease, sublease, or otherwise dispose of industrial plants or business establishments:"
(Emphasis added.)

Section 1724.10, Revised Code, relates to the designation of a community improvement corporation as an agent of the political subdivision and provides in part:

"A community improvement corporation may be designated by a county, one or more municipal corporations, or a county and one or more municipal corporations or two or more adjoining counties as the agency of each such political subdivision for the industrial, commercial, distribution, and research development in such political subdivision when the legislative authority of such political subdivision has determined that the policy of the political subdivision is to promote the health, safety, morals, and general welfare of its inhabitants through the designation of a community improvement corporation as such agency. Such designation shall be made by the legislative authority of the political subdivision by resolution or ordinance. Any political subdivision which has designated a community improvement corporation as such agency may enter into an agreement with it to provide any one or more of the following:

"(A) That the community improvement corporation shall prepare a plan for the political subdivision of industrial, commercial, distribution, and research development, and such plan shall provide therein the extent to which the community improvement corporation shall participate as the agency of the political subdivision in carrying out such plan. Such plan shall be confirmed by the legislative authority of the political subdivision. A community improvement corporation may insure mortgage payments required by a first mortgage on any industrial, economic, commercial, or civic property for which funds have been loaned by any person, corporation, bank, or financial or lending institution upon such terms and conditions as the community improvement corporation may prescribe. A community improvement corporation may incur debt, mortgage its property acquired under this section or otherwise, and issue its obligations, for the purpose of acquiring, constructing, improving, and equipping buildings, structures, and other properties, and acquiring sites therefor, for lease or sale by the community improvement corporation in order to carry out its participation in such plan. * * *" (Emphasis added.)

Giving effect to the above-quoted statutes, a community improvement corporation is only authorized pursuant to Section 1724.02, *supra*, to acquire and improve real estate for the purpose of constructing industrial plants or other business establishments. As the agent designated by the political subdivision, pursuant to Section 1724.10, *supra*, the community improvement corporation is only authorized to acquire sites and construct, improve and equip buildings, structures and other properties pursuant to a plan, confirmed by the legislative authority of the political subdivision, for the industrial, commercial, distribution,

and research development of the community or area. The statutes do not authorize the designation of a community improvement corporation as an agent of the political subdivision for civic development and the use of a community improvement corporation as a vehicle for an alternative method of financing the needs of local governmental bodies cannot be implied.

In regard to your second point, the question of the federal income tax upon the interest paid on bonds issued by a community improvement corporation pursuant to Sections 1724.02 and 1724.10, supra, does not involve a matter of Ohio law and, accordingly, this office must therefore decline to express an opinion.

Therefore, it is my opinion and you are hereby advised that a community improvement corporation organized pursuant to Chapter 1724, Revised Code, does not have authority to acquire and improve real estate which is to be leased, sold, or leased with option to purchase to the county board of library trustees.