

OPINION NO. 88-006

Syllabus:

The limitations imposed by R.C. 166.07 upon direct loans made by the Director of Development do not apply to the arrangements for assistance provided for in R.C. 166.02(B)(4).

To: David J. Baker, Director, Ohio Department of Development, Columbus, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, March 25, 1988

I have before me your request for my opinion on the applicability of R.C. 166.07, which regulates the lending of money from the Facilities Establishment Fund created pursuant to R.C. 166.03. Specifically, you ask:

Do the limitations imposed by R.C. 166.07 upon direct loans made by the Director of Development apply to the arrangements for assistance provided for in R.C. 166.02(B)(4)?

R.C. 166.07 provides that the Director of Development may only offer a direct loan from the Facilities Establishment Fund within certain limits, and provides in pertinent part:

(A) The director of development, with the approval of the controlling board and subject to the other applicable provisions of this chapter, may *lend moneys* in the facilities establishment fund to persons for the purpose of paying allowable costs of an eligible project if the director determines that:

....
 (3) The amount to be lent from the facilities establishment fund will not exceed seventy-five per cent of the total allowable costs of the eligible project.... (Emphasis added.)

I find the language of R.C. 166.07 to be clear and unambiguous. The statute does impose certain limits on the actions of the Director of Development. It imposes those limits, however, only when the Director is "lend[ing] moneys" from the Facilities Establishment Fund. The assistance contemplated in R.C. 166.02(B)(4) does not include the *lending of money* from the Facilities Establishment Fund. Rather, R.C. 166.02(B)(4) provides that the director may *dispose of property acquired with money* from the Facilities Establishment Fund:

(B) In furtherance of such public policy and to implement such purpose, the director of development may:

....
 (4) Subject to release thereof by the controlling board, from moneys in the facilities establishment fund acquire or contract to acquire by gift, exchange, or purchase, including the obtaining and exercise of purchase options, property, and *convey or otherwise dispose of*, or provide for the conveyance or disposition of, property so acquired or contracted to be acquired by sale, exchange, lease, lease purchase, conditional or installment sale, transfer, or other disposition, including the grant of an option to purchase, to any governmental agency or to any other person without necessity for competitive bidding and upon such terms and conditions and manner of consideration pursuant to and as the director determines to be appropriate to satisfy the objectives of Chapter 166 of the Revised Code.... (Emphasis added.)

R.C. 1.42 provides that words and phrases in the Revised Code "shall be read in context and construed according to the rules of grammar and common usage." In addition, the Ohio Supreme Court has held that a plain and unambiguous statute leaves no occasion to resort to rules of statutory construction. *See Swetland v. Miles*, 101 Ohio St. 501, 130 N.E. 22 (1920) (Syllabus, paragraph one). *See also State ex rel. Stanton v. Zangerle*, 117 Ohio St. 436, 439, 159 N.E. 823, 824-25 (1927)

("There is no dispute...as to what the law specifically provides with respect to these matters. There is practically no occasion for any construction of the statutes. They are very definite and very plain, and need only to be read to ascertain their meaning.") The plain language of R.C. 166.07 and R.C. 166.02(B)(4) indicates that the two provisions control two different types of assistance that the Director of Development may provide. I see no reason to conclude that the limitations contained in R.C. 166.07 apply to R.C. 166.02(B)(4).

Accordingly, it is my opinion and you are advised that the limitations imposed by R.C. 166.07 upon direct loans made by the Director of Development do not apply to the arrangements for assistance provided for in R.C. 166.02(B)(4).