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SYLLABUS:

1. The Department of Development as an official state planning agency by virtue of Sections 122.01 and 122.06, Revised Code, qualifies as an applicant for a federal grant under Section 701 of the Federal Housing Act of 1954.

2. Section 122.01 (E), Revised Code, empowers the Department of Development to receive and expend federal funds and to provide or obtain and expend other funds for the purpose of providing planning assistance to political subdivisions or county and regional planning commissions of Ohio.

3. Section 122.01, Revised Code, empowers the Department of Development to contract in its own name with the United States for the above purposes.

4. By authority of Section 3, paragraph 2 of House Bill No. 270, effective June 11, 1963, the Department of Development is empowered to assume all liabilities and obligations of the Department of Industrial and Economic Development incurred by that department prior to June 11, 1963.

Columbus, Ohio, August 22, 1963

Hon. George E. Wilson
Director
Department of Development
155 North High Street
Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"In order to satisfy the requirements of the Federal Housing and Home Finance Agency in connection with the Urban Planning Assistance program which is adminis-

tered by this Department for municipalities and counties under 50,000 population, we need an opinion from your office on the following:

"1. Does the Department of Development meet the requirements for an applicant for a Federal grant under Section 701 of the Housing Act of 1954, as amended?

"Under the federal law it is necessary, among other requirements, that an applicant for a federal grant be one of the following:

"(a) An official State, metropolitan, or regional planning agency empowered to perform metropolitan or regional planning work;

"(b) A city, other municipality, or county having a population of 50,000 or more according to the latest decennial census for planning work in major disaster areas;

"(c) An official governmental planning agency for planning work under the Federally impacted provision of Clause (3) of Section 701; or

"(d) An official State Planning agency for planning assistance to cities and other municipalities having a population of less than 50,000 under the latest decennial census, and also to the public bodies mentioned in (b) and for area described in (c).

"2. Does Section 122.01 of the Ohio Revised Code empower the Department of Development to receive and expend federal funds and to provide or obtain and expend other funds for the purpose of providing planning assistance to political subdivisions or county and regional planning commissions of this State?

"3. Does Section 122.01 empower the Department of Development to contract in its own name with the United States for the above purposes?

"4. Is the Department of Development empowered to assume all liabilities and obligations of the Department of Industrial and Economic Development arising out of contracts entered into by said Department for the purposes stated in Number 2 above?"

In answer to your first question whether the Department of Development meets the requirements of an applicant for a federal grant under Section 701 of the Housing Act of 1954 as amended, I refer you to the pertinent legislation as follows, Section 122.01, Revised Code, states as follows:

“The department of development shall develop and promote programs designed to make the best use of the resources of the state so as to assure a balanced economy and continuing economic growth for Ohio and for such purposes may:

“(A) Assemble and disseminate information concerning the resources of the state and their availability for the development of industrial and commercial activities;

“(B) Prepare and activate plans for the development, expansion, and use of the resources of the state;

“(C) Cooperate with federal, state, and local governments and agencies thereof in the co-ordination of programs to make the best use of the resources of the state;

“(D) Encourage and foster research and development activities;

“(E) Receive and accept grants, gifts, and contributions of money, property, labor, and other things of value from agencies and instrumentalities of the United States and including the receipt and acceptance, on behalf of the state of Ohio, of grants from agencies and instrumentalities of the United States, for providing planning assistance to political subdivisions or county or regional planning commissions of this state, which the department shall receive and administer in accordance with the terms thereof and may contract with any such political subdivisions or planning commissions to carry out the purposes for which such grants were made.”

Section 122.06, Revised Code, relating to the division of planning in the Department of Development states that:

“The division of planning in the department of development shall:

“(A) Assemble, analyze, and make available to governmental agencies and the public, information relative to the resources and economic needs of the state;

“(B) Cooperate with departments and agencies of the state in preparing and maintaining plans for the development of the resources of the state;

“(C) Assist in the co-ordination of development plans of federal, state, and local governments and private agencies;

“(D) Cooperate with federal agencies and authorities of other states in the solution of development problems which cross state lines.”

Based on the above statutes it is my opinion that the Department of Development is an official state planning agency empowered by statute to formulate development plans on a national, state or regional level and to cooperate with the federal government and with local political subdivisions and as such there is no question that it qualifies as a recipient of federal grants under Section 701 of the 1954 Housing Act. As an official state or governmental planning agency it qualifies under paragraphs A, C, and D of your question.

In answer to your second question, Section 122.01 (E), Revised Code, as set forth above, explicitly authorizes the Department of Development to receive and expend federal funds and to provide or obtain and expend other funds for the purpose of providing planning assistance to political subdivisions and county and regional planning commissioners of the state.

The third question asks whether the Department of Development can contract for the above mentioned purposes in its own name with the United States. It is my opinion, based on compelling implications in Section 122.01 (E), Revised Code, that the Department of Development does have this power. Section 122.01 (E) authorizes the Department to receive funds from the United States "and administer them in accordance with the terms thereof." It is my opinion that a necessary implication of this power to receive funds and administer them in a specified manner is the power to contract with the United States. The power to contract is but an incident of this power to receive and administer. Section 122.01 (E) specifically authorizes the Department to contract with political subdivisions for planning purposes so there is little doubt about their power to contract.

The fourth question asks whether the Department is empowered to assume all liabilities and obligations of the Department of Industrial and Economic Development arising out of contracts entered into by the said Department for the purposes stated in your second question.

Section 3, paragraph 2 of House Bill No. 270, effective June 11, 1963, authorizes the above assumption stating that:

"All liabilities and obligations of the department of

industrial and economic development arising out of contracts entered into by the department prior to the effective date of this act shall be liabilities and obligations of the department of development created by this act.”

Accordingly, it is my opinion and you are hereby advised that:

1. The Department of Development as an official state planning agency by virtue of Sections 122.01 and 122.06, Revised Code, qualifies as an applicant for a federal grant under Section 701 of the Federal Housing Act of 1954.

2. Section 122.01 (E), Revised Code, empowers the Department of Development to receive and expend federal funds and to provide or obtain and expend other funds for the purpose of providing planning assistance to political subdivisions or county and regional planning commissions of Ohio.

3. Section 122.01, Revised Code, empowers the Department of Development to contract in its own name with the United States for the above purposes.

4. By authority of Section 3, paragraph 2 of House Bill No. 270, effective June 11, 1963, the Department of Development is empowered to assume all liabilities and obligations of the Department of Industrial and Economic Development incurred by that department prior to June 11, 1963.

Respectfully,
WILLIAM B. SAXBE
Attorney General