

2725

1. HOUSING—TEMPORARY EMERGENCY FOR VETERANS—
COUNTY COMMISSIONERS AUTHORIZED TO PAY OUT
OF VETERANS' HOUSING FUND FEES OF ARCHITECT
TO PREPARE PLANS AND SUPERVISE CONSTRUCTION
OF TEMPORARY HOUSING, VETERANS OF WORLD WAR
II—SECTION 1078-62 ET SEQ., G. C.

2. EMPLOYMENT OF ARCHITECT FOR PUBLIC BUILDINGS
—SECTION 2423 G. C. HAS NO APPLICATION TO EREC-
TION OF TEMPORARY EMERGENCY HOUSES FOR VET-
ERANS.

SYLLABUS:

1. Under the provisions of Section 1078-62 et seq., General Code, providing for temporary emergency housing for veterans, the county commissioners are authorized to pay out of the veterans' housing fund, the fees of an architect for preparing plans for and supervision of construction of temporary housing for veterans of World War II.

2. Section 2343, General Code, providing for the employment of an architect for public buildings, has no application to the erection of temporary emergency houses for veterans.

Columbus, Ohio, February 9, 1948

Hon. C. J. Borkowski, Prosecuting Attorney
Jefferson County, Steubenville, Ohio

Dear Sir:

I have before me your request for my opinion, reading as follows:

“(1) Does Section 1078-66 of the Veterans Emergency Housing Act provide sufficient power for the Commissioners to contract for an architect for the purposes mentioned in the letter of the Board of County Commissioners to the undersigned, and if so should this bill be payable out of the special fund known as the County Veterans Housing Fund?”

“(2) Does not Section 2343 cover the situation in this instance, and if so can money now in 1948 be appropriated for the purpose of paying the same since the contract was entered into on January 28, 1947, and fully completed therein?”

Accompanying your request, you submit a copy of a letter received from the board of county commissioners of Jefferson County, reciting the fact that the architect in question was employed pursuant to a resolution of the board, for the preparation of plans and specifications for the erection of ten houses, the architect to be paid a commission of six percent for plans and specifications for the first house and two and one-half percent for the supervision thereafter, of each house built.

While the resolution of the commissioners does not make it entirely clear that these houses were erected for housing veterans, pursuant to the provisions of House Bill No. 508, of the 96th General Assembly, yet I take your reference to Section 1078-66 of the veterans emergency housing act, as indicating that they were erected pursuant to the plan and purpose of that act.

In an opinion which I rendered on September 12, 1946, found in 1946 Opinions of the Attorney General, page 660, it was pointed out that the act in question was to meet a well recognized emergency in attempting to provide as speedily as possible, temporary homes for veterans of the late war, and for the purpose of accomplishing that end, the county commissioners were given a considerable measure of discretion. In a later opinion, found in 1946 Opinions of the Attorney General, page 680, it was held:

“Under the terms and provisions of House Bill 508 as enacted by the 96th General Assembly, the county commissioners are authorized to employ such assistance as, in the exercise of a sound discretion they deem necessary, in acquiring, constructing and operating the housing facilities contemplated by the act, and to pay the expense thereof out of the county veterans housing fund.”

That opinion related specifically to the right of the commissioners to pay the expenses of the management and the office expense of a veterans housing department out of the veterans housing fund. In the course of the opinion it was said:

“It is obvious that in the erection or remodeling of structures the services of architects and superintendents may be required, and the expense of their employment would be a necessary part of the cost of such structures, and properly payable out of the fund appropriated for such purpose; and it is equally obvious that in the renting, management, supervision of maintenance and repair, and collection of rentals, a manager might be necessary.”

Accordingly, I have no hesitancy in advising you that the cost of architectural services involved in planning and superintending the erection of temporary emergency housing for veterans is a proper charge against the funds appropriated to the several counties by the provisions of House Bill No. 508, of the 96th General Assembly, being Section 1078-62 et seq., General Code.

In my opinion Section 2343, General Code, is wholly inapplicable to the situation which you present. That section is a part of the general laws relating to public buildings erected by the county commissioners, and provides in effect, that when it becomes necessary for the commissioners of a county to erect or cause to be erected a public building, or substructure for a bridge, or an addition to or alteration thereof, they shall cause plans and specifications to be made by an architect or engineer. The sections which follow, provide for the procedure looking to contracts for and the construction of such buildings. None of the laws relating to these general county buildings, give any authority for the erection of temporary housing for veterans or for any other persons, and in my opinion the emergency housing measure embraced in the act hereinbefore discussed, contemplates a procedure of a special and emergency character and the payment of the cost of these temporary houses, including such incidental expenses as architect's fees, solely out of the appropriation provided for as hereinabove mentioned.

Respectfully,

HUGH S. JENKINS,
Attorney General.