

1204

HOUSING FUND, VETERANS—COUNTY COMMISSIONERS—
AUTHORIZED TO EMPLOY SUCH ASSISTANCE AS DEEMED
NECESSARY—EXPENSES PAID OUT OF COUNTY VETER-
ANS' HOUSING FUND—HOUSE BILL 508, 96 GENERAL AS-
SEMBLY.

SYLLABUS:

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.

Columbus, Ohio, September 21, 1946

Honorable Ralph J. Bartlett, Prosecuting Attorney
Columbus, Ohio

Dear Sir:

I have before me your communication requesting my opinion and reading in part as follows:

“Can the management and office expenses of a veterans' housing department, as referred to in H. B. 508, be paid out of the veterans housing funds?”

The manager's duties are as follows:

To act as liason agent between the Commissioners and contractors or manufacturers of prefabricated homes; to expedite the building of the veterans housing units; to help secure sites and building materials incidental to carrying out the program; to manage the properties acquired by the County for use of the veterans; to make reports as required by law to the State Treasurer, and to help the Commissioners carry out all provisions of the Act.”

The act in question was passed at the extra session of the 96th General Assembly. As pointed out in my opinion No. 1197, dated September 12, 1946, the manifest purpose of the general assembly was to meet in the shortest possible time, and by the most direct process, the critical emergency that is known to exist in finding lodgings and living

quarters for many thousands of returning veterans of the late war, and their families.

By the terms of Section 1 of the act the moneys allocated to each county out of the total appropriation of \$6,000,000 are to be placed in a special fund in the treasury of the county to be known as the "county veterans housing fund."

Section 2 of the act states the general purpose of this appropriation and this special fund as follows:

"The county commissioners of each county are hereby authorized to expend all or any part of their county veterans housing fund *for the purpose of providing immediate temporary emergency housing facilities* for residents of their counties who were members of the armed forces of the United States who have served in World War II and have been discharged other than dishonorably, and for their families." (Emphasis added.)

Section 5 goes more particularly into the various steps and methods whereby these purposes are to be accomplished. This section provides:

"The county commissioners of each county in order to provide housing facilities are hereby *authorized to acquire* by purchase, lease, gift or otherwise improved or unimproved land, structures, materials, equipment, facilities and services *and to erect structures* for the purpose of making such temporary emergency housing available. The title to said property shall be in the county commissioners of the county. The county commissioners *shall provide for the maintenance and management* of the property acquired hereunder, shall make and publish rules governing the letting of the premises to veterans subject to this act, and *shall fix and collect rents* from tenants which said rents shall be fair and equitable considering the services provided, the type of housing, and its condition and location. All rents collected hereunder shall be deposited *in the county veterans housing fund* and not to exceed ninety per centum of such rents collected may be used for the *maintenance and operation* of the property. * * *" (Emphasis added.)

While the section last quoted does not specifically say that all of the things there mentioned are to be accomplished out of the money appropriated and placed in the county veterans housing fund, yet I consider that the two sections are to be read together and that the latter is merely an elaboration of the former, setting out the methods by which the general

purpose is to be accomplished. If then the cost of acquiring or erecting structures for the purpose of making temporary emergency housing available is to be paid out of the county veterans housing fund I cannot see any reason why the cost of "maintenance and management" which is provided for in the same section could not properly be paid out of the same fund. 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. Certainly the actual cost of upkeep and repair is a legitimate charge against the fund which is made up partly from the appropriation and partly from rentals. The words "maintenance and management" are coupled together, and if this maintenance cost is a proper expenditure from the fund, by what process of reasoning could we conclude that the cost of management is not equally a proper expenditure from the same fund?

It may be noted that by the provision of the last sentence of Section 5 which I have quoted, all rents collected are to be deposited in the same "county veterans housing fund" and it is expressly provided that not more than 90% of such rents collected may be used for the "maintenance and operation" of the property.

In view of the language of Section 5 and the provisions of the act, it can hardly be claimed that the obligation placed upon the county commissioners to provide for the maintenance and management of the property means that they must provide the cost of such maintenance and management out of funds other than the county veterans housing fund. If that construction be adopted then by the same reasoning even the cost of acquisition or erection of housing facilities for the veterans would also have to be met out of other funds, since all these purposes are grouped together and covered in Section 5 of the act. Such a conclusion would be manifestly absurd, and would render the entire act meaningless.

As to the task of securing sites, purchasing building materials and negotiating with contractors with a view of expediting the acquisition or erection of housing units for veterans, that appears to me to be as neces-

sary as the management and operation of the properties, and if the commissioners find it necessary to employ help for that purpose, the cost would be a legitimate expenditure from the funds in question.

The duties of a manager, as outlined in your letter, all appear to me to be appropriate to carrying into effect the purposes of the act under consideration.

It is accordingly my opinion that 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.

Respectfully,

HUGH S. JENKINS
Attorney General

1205

1. FAIRGROUNDS AND BUILDINGS—MONEY PAID BY UNITED STATES GOVERNMENT—COUNTY COMMISSIONERS—SETTLEMENT, DAMAGE IN USE OF GROUNDS FOR ARMY CAMP—MAY NOT BE TRANSFERRED TO COUNTY AGRICULTURAL SOCIETY.
2. BUILDINGS ERECTED ON COUNTY OWNED FAIRGROUNDS FOR COUNTY FAIR PURPOSES ARE “PUBLIC BUILDINGS”—SECTIONS 2343 AND 2362 G. C.

SYLLABUS:

1. Money paid by the United States Government to the county commissioners in settlement for loss and damages resulting from the occupation and use by the government of the county-owned fairgrounds and buildings as an army camp, pursuant to the terms of the lease under which the government occupied and used the grounds and buildings, may not be transferred to the county agricultural society.

2. Buildings erected by the county commissioners on county-owned fairgrounds for county fair purposes, are “public buildings” within the meaning of Sections 2343 and 2362, and related sections of the General Code.