

OPINION NO. 70-007

Syllabus:

A political subdivision may, pursuant to Section 1724.10, Revised Code, designate more than one community improvement corporation as its agent, when the respective territorial jurisdictions of the proposed agents would not overlap, Opinion No. 103, Opinions of the Attorney General for 1966, overruled.

To: F. P. Neuenschwander, Director, Dept. of Development, Columbus, Ohio
By: Paul W. Brown, Attorney General, January 23, 1970

I have before me your request for an opinion concerning the following question:

"May a municipality designate a Community Improvement Corporation as its agent for a development project within a specifically delineated geographical area within its corporation limits and, at a later date, designate another Community Improvement Corporation as its agent for a development project within another specifically delineated portion within the corporation limits. In the cases in point, neither of the areas of operation would overlap."

Section 1724.10, Revised Code, reads, in part, as follows:

"A community improvement corporation may be designated by a county, one or more municipal corporations, two or more adjoining counties, or any combination of the foregoing, as the agency of each such political subdivision for the industrial, commercial, distribution, and research development in such political subdivision * * *."

The above section refers to such a designated community improvement corporation as "the agency of each such political subdivision". (Emphasis added) In Opinion No. 600, Opinions of the Attorney General for 1963, my predecessor ruled that such language prohibited such a political subdivision from designating more than one community improvement corporation as its agent. In Opinion No. 103, Opinions of the Attorney General for 1966, this interpretation was followed and carried a step further to imply that more than one community improvement corporation could not be designated as the agent of a subdivision, even if the respective territorial jurisdiction would not overlap. I am not persuaded by the reasoning of my predecessor in Opinion No. 103, supra. That Opinion relies almost solely on the fact that Section 1724.10, supra, refers to "the" agency and the provision that the agent community improvement corporation shall prepare "a" plan for the political subdivision. Such reasoning overlooks the fact that Section 1724.01, Revised Code, provides that a community improvement corporation may be organized for the stated purposes for "a community or area."

In addition, the preparation of a plan as provided for in Section 1724.10, supra, is not mandatory but, rather, permissive. To follow the reasoning of Opinion No. 103, supra, in view of the provisions of Section 1724.01, supra, would mean that a non-agent community improvement corporation could be formed for some portion of a municipality with a second community improvement corporation being formed and appointed agent for the entire municipality. In such an instance, there would be a complete overlapping of efforts of the two corporations with respect to the area being served by the non-agent corporation. Chapter 1724, Revised Code, is legislation of the remedial type and is to be broadly construed. It does not seem to me to be the intent of the General Assembly to restrict a municipal corporation to a single community improvement corporation, especially when such restriction could well give rise to the complete overlapping of efforts between a community improvement corporation appointed as its agent and a different non-agent community improvement corporation serving some lesser part of the area of the municipal corporation.

Opinion No. 600, supra, recognizes a prohibition in Section 1724.10, supra, against more than one agent when prospective agents are each to have jurisdiction over the total geographic area of the political subdivision. However, the language of Section 1724.10, supra, is silent with respect to the designation of more than one community improvement corporation as its agent, when their territorial jurisdictions do not overlap. Consequently, it is necessary to consider the authority given to agents under Section 1724.10, supra, to determine whether the existence of two agents under the present circumstances could give rise to a conflict which would serve to defeat the purposes of the statute.

Section 1724.10, (A), Revised Code, provides, in part:

"(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. * * *

"Actions taken under this section shall be in accordance with any applicable planning or zoning regulations.

* * * * *

(Emphasis added)

Section 1724.10 (B), Revised Code, provides, in part, that:

"(B) Authorization for the community improvement corporation to sell or to lease any lands or interests in lands owned by the political subdivision determined from time to time by the legislative authority thereof not

to be required by such political subdivision for its purposes, for uses determined by the legislative authority as those that will promote the welfare of the people of the political subdivision, stabilize the economy, provide employment, and assist in the development of industrial, commercial, distribution, and research activities to the benefit of the people of the political subdivision and will provide additional opportunities for their gainful employment. The legislative authority shall specify the consideration for such sale or lease and any other terms thereof. Any determinations made by the legislative authority under this division shall be conclusive. * * *

(Emphasis added)

It appears that the above provisions give the legislative authority of the subdivision sufficient power to coordinate the activities of its agents and thereby prevent any conflicts which might impair the effectiveness of the act. Such multiplicity of agents, where the territorial jurisdictions are mutually exclusive, might well prove beneficial in enabling a more efficient promotion of the subdivision as a whole. Consequently, I find nothing in Chapter 1724, Revised Code, which would be violated by the designation of more than one community improvement corporation as the agent of a political subdivision when their proposed territorial jurisdictions would not overlap.

It is therefore my opinion and you are hereby advised that a political subdivision may, pursuant to Section 1724.10, Revised Code, designate more than one community improvement corporation as its agent, when the respective territorial jurisdictions of the proposed agents would not overlap. Opinion No. 103, Opinions of the Attorney General for 1966, overruled.