

From this examination, in the light of the law under authority of which these bonds have been authorized, I am of the opinion that bonds issued under these proceedings constitute valid and legal obligations of said city.

Respectfully,

HERBERT S. DUFFY,

*Attorney General.*

---

2497.

METROPOLITAN HOUSING AUTHORITY—UNDER SECTIONS 1078-30 ET SEQ. G. C. FUNDS REQUIRED TO BE DEPOSITED AS PROVIDED IN UNIFORM DEPOSITORY ACT—SECTIONS 2296-1 ET SEQ. G. C.

*SYLLABUS:*

*Funds coming into the possession of a metropolitan housing authority created under Sections 1078-30, et seq., of the General Code, are required to be deposited in accordance with the provisions of the Uniform Depository Act, Sections 2296-1, et seq., General Code.*

COLUMBUS, OHIO, May 23, 1938.

HON. S. H. SQUIRE, *Superintendent of Banks, Columbus, Ohio.*

DEAR SIR: Your letter of recent date is as follows:

“The Youngstown Metropolitan Housing Authority has been created pursuant to the provisions of Section 10786-1, et seq., of the General Code. From time to time it will have funds available for deposit and the question has been presented to me as to whether or not in making such deposits it must comply with the ‘Uniform Depository Act’ (Section 2296-1, et seq.) of this state. The funds so deposited will, I am informed, be ‘active deposits’ and will be distributed under the direct supervision of the National Housing Authority for construction of the project.

I will appreciate your opinion relative to this matter.”

Your reference to Section 10786-1, et seq., is, I assume, a typographical error as the State Housing Law is contained in Sections 1078-1, et seq., of the General Code.

The Uniform Depository Act, providing for the deposit of public moneys in the possession of the subdivisions of this state, defines the term "subdivision" as used in that act in paragraph b of Section 2296-1, General Code, in the following language:

"'Subdivision' means any county, school district, municipal corporation (excepting a municipal corporation or a county which has adopted a charter under the provisions of Article XVIII or Article I of the constitution of Ohio having special provisions respecting the deposit of the public moneys of such municipal corporation or county), township, special taxing or assessment district or other district or local authority electing or appointing a treasurer in this state. In the case of a school district, special taxing or assessment district or other local authority for which a treasurer, elected or appointed primarily as the treasurer of a subdivision, is authorized or required by or pursuant to law to act as ex-officio treasurer, the subdivision for which such a treasurer has been primarily elected or appointed shall be considered to be the 'subdivision' for all the purposes of this act."

It is observed that the foregoing definition includes any "local authority electing or appointing a treasurer in this state," as well as any local authority for which any subdivision treasurer is authorized to act as ex-officio treasurer.

Paragraph g of such Section 2296-1 however broadens the provisions of paragraph b of such section, supra, with respect to the necessity of a treasurer being elected or appointed for a local authority. Such paragraph g reads as follows:

"'Treasurer' includes the treasurer of state and the treasurer, or other officer exercising the functions of a treasurer, of any subdivision."

In view of the foregoing definition of the word "treasurer," it would appear that any local authority for whom any officer exercises the functions of a treasurer is a subdivision within the meaning of the term as used in the Uniform Depository Act.

Section 1078-2, General Code, declaring the legislative policy in

the enactment of a Housing law and reasons for the necessity of such enactment, expressly provides that housing authorities are agencies and instrumentalities of the state. The concluding sentence of such section is as follows:

“\* \* \* Therefore, there are created and authorized the agencies and instrumentalities hereinafter prescribed which are declared to be the agencies and instrumentalities of the state for the purpose of attaining the ends herein recited, and their necessity in the public interest is hereby declared as a matter of legislative determination.”

Section 1078-30 authorizes the creation of metropolitan housing authorities in the various counties and provides that such authorities shall consist of five members, residents of the territory embraced in the respective housing authority districts, appointed by the probate court, the common pleas court, the county commissioners and the mayor of the most populous city in the territory, as therein set forth. Section 1078-31, General Code, provides for the organization of metropolitan housing authorities in the following language:

“Said housing authority shall be organized by electing one of its members chairman, and another vice-chairman, and shall have power to employ counsel, a director who shall be ex-officio secretary, and such other officers and employes as may be desired, and shall fix the term of office, qualifications and compensation of each.”

The foregoing statute contains no requirement that in the organization of a metropolitan housing authority a treasurer shall be designated or appointed as such and in so far as this point is concerned it is my judgment that this is immaterial for the reason that, as hereinabove shown, the term “treasurer” as used in the Uniform Depository Act includes any officer exercising the functions of a treasurer, and the conclusion is inescapable that as soon as any funds are received by a metropolitan housing authority, one of the officials thereof must necessarily proceed to exercise the functions of a treasurer.

I do not find that the State Housing Law contains any specific provisions as to the deposit of moneys coming into the possession of a housing authority. Section 1078-34, enumerating some of the powers of a housing authority, provides that such authority shall have power “to invest any funds held in reserves or sinking funds or not required

for immediate disbursements." This language, providing that funds held in reserves or sinking funds may be invested, in no way negatives the position that moneys which the housing authority may not see fit to invest should be deposited in accordance with the requirements of the Uniform Depository Act.

In view of the foregoing, it is my opinion that funds coming into the possession of a metropolitan housing authority created under Sections 1078-30, et seq., of the General Code, are required to be deposited in accordance with the provisions of the Uniform Depository Act, Sections 2296-1, et seq., General Code.

Respectfully,

HERBERT S. DUFFY,

*Attorney General.*

2498.

APPROVAL—CONTRACT, STATE OF OHIO, THROUGH DIRECTOR OF HIGHWAYS, WITH THE BALTIMORE AND OHIO RAILROAD COMPANY AND CUYAHOGA COUNTY, ELIMINATION OF GRADE CROSSING, S. H. 460, S. H. 17, INDEPENDENCE VILLAGE, CUYAHOGA COUNTY, OHIO.

COLUMBUS, OHIO, May 23, 1938.

HON. JOHN JASTER, JR., *Director of Highways, Columbus, Ohio.*

DEAR SIR: You have submitted for my approval as to form and legality a certain contract by and between the State of Ohio, acting by John Jaster, Jr., Director of Highways, as party of the first part, the Baltimore and Ohio Railroad Company, as party of the second part, and Cuyahoga County acting by and through its board of county commissioners and the county engineers as party of the third part, which contract relates to the elimination of the grade crossing over the tracks of the Baltimore and Ohio Railroad Company on State Highway No. 460 and State Highway No. 17 in Independence Village, Cuyahoga County, Ohio, whereby the State of Ohio, acting by its director of highways, proposes to do the necessary work for the completion of this project, through the letting of such a contract to a private contractor, the same to be financed partly by State funds and partly by Federal funds, Cuyahoga County bearing the cost of