

**Note from the Attorney General's Office:**

1967 Op. Att'y Gen. No. 67-056 was overruled by  
1985 Op. Att'y Gen. No. 85-024.

1967 Op. Att'y Gen. No. 67-056 was overruled by  
1991 Op. Att'y Gen. No. 91-071.

OPINION NO. 67-056

Syllabus:

A political subdivision may not appropriate monies derived from taxation to provide for the maintenance or operating expenses of a community improvement corporation.

To: John J. Malik, Jr., Belmont County Pros. Atty., St. Clairsville, Ohio  
By: William B. Saxbe, Attorney General, June 9, 1967

Your request for my opinion reads as follows:

"1. The County of Belmont has designated the Community Improvement Corporation of Belmont County as its agent for industrial and commercial development pursuant to the provisions of Section 1724.10, R.C. In such circumstances, may the County submit a 1/2 mill operating levy to the voters, which, if successful, can then be appropriated to the use of the Community Improvement Corporation?

"If the answer to 1 is no, or alternately, if the levy does not pass then,

"2. May municipalities which have designated the Community Improvement Corporation as their agent pursuant to the provisions of Section 1724.10, appropriate money from their respective general funds to the Community Improvement Corporation to be used by it for general operating expenses?"

Chapter 1724, Revised Code, providing for the establishment of community improvement corporations was enacted pursuant to an amendment to the Ohio Constitution, viz., Section 13, Article VIII.

The Supreme Court of Ohio, in State, ex rel., Burton v. Greater Portsmouth Growth Corporation, 7 Ohio St. 2d, 34, states at pages 36, 37:

"Section 13, Article VIII, is a new section of the Constitution. It was submitted as a unit to the voters. This amendment has a single purpose, to allow the state and governmental subdivisions to give financial assistance to private industry or to other governmental units in order to create new employment within this state."

And at page 40:

"The statute in question was enacted pursuant to and as a result of this amendment. It provides the machinery to make such amendment operative.

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"Therefore, it must be read in relation to such amendment and the limitations contained therein. In other words, the constitutional limitation is by implication a part of the statute, and the mere failure to set it forth in the statute does not invalidate the provision.\* \* \*

\* \* \* \* \* \* \* \*

"\* \* \*the debts incurred by the corporation are solely those of the corporation, not of the political subdivision,\* \* \*"

Now, in turning to your specific questions, I believe they may be consolidated into one broader question as follows: May a political subdivision appropriate monies acquired or to be acquired by taxation for the purpose of providing a community improvement corporation with funds to be used to defray its operating expenses?

Section 1724.10, Revised Code, states that a community improvement corporation which has been designated as the agent of a political subdivision may enter into an agreement with it to provide any one or more of the following:

"(A)\* \* \*A community improvement corporation may insure mortgage payments required by a first mortgage or any industrial, economic, commercial, or civic property for which funds have been loaned by any person, corporation, bank, or financial or lending institution upon such terms and conditions as the community improvement corporation may prescribe. A community improvement corporation may incur debt, mortgage its property acquired under this section or otherwise, and issue its obligations, for the purpose of acquiring, constructing, improving, and equipping buildings, structures, and other properties, and acquiring sites therefor, for lease or sale by the community improvement corporation in order to carry out its participation in such plan. Any such debt shall be solely that of the corporation and shall not be secured by the pledge of any monies received or to be received from any political subdivision.\* \* \*

"(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.\* \* \*

"(C)\* \* \*If any lands or interests in land conveyed by a political subdivision under this division are sold by the community improvement corporation at a price in excess of the consideration received by the political subdivision from the community improvement corporation, such excess shall be paid to such political subdivision after deducting, to the extent and in the manner provided in the agreement, the costs of such acquisition and sale, taxes, assessments, costs of maintenance, costs of improvements to the land by the community improvement corporation, service fees, and any debt service charges of the corporation attributable to such land or interests."  
(Emphasis added)

I have quoted this section at length for two reasons: first, because it demonstrates that a community improvement corporation has varied opportunities for generating income to pay its own expenses; second, because the language of the statute indicates that if and when interests in land are transferred by a political subdivision to a community improvement corporation, consideration will follow. Put more simply, the community improvement corporation is expected to pay its own expenses.

A community improvement corporation is a non-profit corporation. The existence of such a corporation is in no way dependent upon the fact that it may be appointed as agent of a political subdivision; it is a separate, distinct, non-political, corporate entity. Moreover, I find no authority whatever in Chapter 5705, Revised Code, for using public funds to support such a corporation. Section 5705.19, Revised Code, enumerates several instances in which a taxing authority may submit a special levy, over the 10 mill limitation, to the voters for their approval. There is no provision specifically allowing such a levy for the maintenance of a community improvement corporation. Nor is there authority for expending monies from the general fund to be used to maintain a community improvement corporation.

At this time, I would like to point out that you have asked about the propriety of "paying the expenses" of a community improvement corporation. While a political subdivision may not maintain or pay the expenses of a community improvement corporation, it may, of course, use public funds to pay for any contractual liability it incurs as a result of services or goods furnished to it by the corporation.

Therefore, it is my opinion and you are hereby advised that a political subdivision may not appropriate monies derived from taxation to provide for the maintenance or operating expenses of a community improvement corporation.