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HOUSING ACT OF 1949, FEDERAL—COUNTY COMMISSIONERS—NO LEGAL AUTHORITY TO CARRY OUT THE FUNCTIONS AND FULFILL OBLIGATIONS OF PUBLIC LAW 171—LOCAL PUBLIC AGENCIES.

SYLLABUS:

County commissioners have no legal authority to carry out the functions and fulfill the obligations of Public Law 171, otherwise known as the "Federal Housing Act of 1949."

Columbus, Ohio, December 19, 1949

Hon. William A. Ambrose, Prosecuting Attorney
Mahoning County, Youngstown, Ohio

Dear Sir:

Your letter requesting my opinion reads as follows:

"The federal government, in order to extend aid to communities, enacted an act known as the 'Housing Act of 1949' which provides aid, by way of loans or capital grants, to financially assist in slum clearance, redevelopment or rehabilitation of blighted areas and low-cost housing projects.

"Have the county commissioners any legal authority to take advantage of, and make application for, such financial aid for one or more of the above objectives and do they have the necessary legal authority to carry out the functions and fulfill the obligations of said 'Housing Act'?"

The legislative history of Public Law 171, United States Code, Chapter 338, page 1366, which is commonly known as the Housing Act of 1949, discloses that the philosophy of the bill is based upon the foundation that, although the housing problem is obviously national in scope, it is fundamentally a local problem, and that the first responsibility for its solution rests with the local community. It provides federal assistance for the clearance of slums and blighted areas where there has been a local determination, by the governing body of the community, that the project is needed and where the plans for such a project are locally made and locally approved. Federal assistance, due to this act, is available only

where such housing projects are locally initiated, locally developed and locally managed.

Since the purpose of the Housing Act of 1949 is to assist locally planned slum-clearance undertakings by local public agencies, your attention is invited to the definition of "local public agencies" as used in the Housing Act. This definition may be found in Section 110, subsection h of the Act and reads as follows:

"'Local public agency' means any state, county, municipality or governmental entity or public body which is authorized to undertake the project for which assistance is sought."

The question thus arises whether the county, through its commissioners, is authorized to undertake such a project in Ohio and thereby be afforded the benefits of the Housing Act under consideration.

If such authority does exist, it must be found through a review of applicable statutes, because the county commissioners are only vested with such authority as is expressly or impliedly conferred upon them by statute.

The Ohio State Housing Authority Law, through Section 1078-34, discloses in Subsection (c) that a housing authority may in Ohio accept grants or other financial assistance from the federal government for or in aid of any housing project, but the housing authorities as established in Ohio are bodies corporate and politic, and the powers of such authorities in no way affect the counties as such, or the powers and duties of the county commissioners.

Another possibility which might be considered relative to the authority of the county commissioners to take advantage of the Housing Act of 1949 is Section 1078-53 of the Ohio Housing Cooperation Law, which enumerates the powers of public bodies relative to housing projects.

It will be noted, however, that this section begins "for the purpose of aiding and cooperating." It confers no power to initiate, develop and manage the project as required by the Housing Act of 1949. It also makes no provision for the expenditures necessary to fulfill the county's financial obligation to any project instituted pursuant to the Housing Act.

A further examination of statutes applicable to housing projects discloses nothing which either expressly or by implication authorizes the county commissioners to carry out the program instituted through this measure.

It is therefore my opinion, in specific answer to your question, that the county commissioners have no legal authority to carry out the functions and fulfill the obligations of Public Law 171, otherwise known as the "Federal Housing Act of 1949."

Respectfully,

HERBERT S. DUFFY,
Attorney General.

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MOTOR VEHICLE—WHERE CLERK OF COURTS ISSUES CERTIFICATE OF TITLE TO A MOTOR VEHICLE AND ERRONEOUSLY FAILS TO NOTE THEREON VALID LIENS ON RECORD IN HIS OFFICE, DUTY OF REGISTRAR OF BUREAU OF MOTOR VEHICLES TO MAKE PROPER NOTATION—SECTION 6290-7 G. C.

SYLLABUS:

Where a clerk of courts issues a certificate of title to a motor vehicle and erroneously fails to note thereon valid liens on record in his office, the Registrar of the Bureau of Motor Vehicles should, and it is his duty, under the provisions of Section 6290-7 of the General Code, to do so.

Columbus, Ohio, December 22, 1949

Hon. Frank M. Quinn, Registrar, Bureau of Motor Vehicles
Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"Please advise me with reference to the following situation:

The Clerk of Courts of Cuyahoga County issued an Ohio certificate of title receiving as supporting evidence of ownership a transcript of a Bailiff's Bill of Sale from the Cleveland Municipal Court. At the time of issue of the Certificate of Title the issuing clerk failed to check the previous record on this car with the result that it was subsequently discovered there are two uncanceled liens recorded against the car.

An effort has been made to have the new owner of the vehicle return the title. This he refuses to do.