

OPINION NO. 91-072**Syllabus:**

A metropolitan housing authority is not a "subdivision" for purposes of R.C. Chapter 5705.

To: Thomas E. Ferguson, Auditor of State, Columbus, Ohio
By: Lee Fisher, Attorney General, December 31, 1991

You have requested an opinion relating to metropolitan housing authorities. Your specific question is whether a metropolitan housing authority is a subdivision for purposes of R.C. Chapter 5705.

R.C. 5705.01(A) contains the following definition of the term "subdivision," as used in R.C. Chapter 5705:

"Subdivision" means any county; municipal corporation; township; township police district; township fire district; joint fire district; joint ambulance district; joint recreation district; township waste disposal district; township road district; community college district; technical college district; detention home district; a district organized under section 2151.65 of the Revised Code; a combined district organized under sections 2151.34 and 2151.65 of the Revised Code; a joint-county alcohol, drug addiction, and mental health service district; a drainage improvement district created under section 6131.52 of the Revised Code; a union cemetery district; a county school financing district; or a city, exempted village, local, or joint vocational school district.

This definition designates a variety of governmental entities as "subdivisions" for purposes of R.C. Chapter 5705. It does not, however, include a municipal housing authority. It follows that a municipal housing authority is not a subdivision for purposes of R.C. Chapter 5705. See R.C. 1.42 ("[w]ords and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly"); *Woman's International Bowling Congress v. Porterfield*, 25 Ohio St. 2d 271, 267 N.E.2d 781 (1971) (syllabus, paragraph 2) ("[w]here a statute defines terms used therein which are applicable to the subject matter affected by the legislation, such definition controls in the application of the statute").

Your letter of request states that your question arose because of the statement in 1987 Op. Att'y Gen. No. 87-019, at 2-126, that "[t]here seems to be little question...that a metropolitan housing authority is a political subdivision of the state." In Op. No. 87-019, my predecessor was considering the application of the term "public servant," found in R.C. 2921.01(B), to the executive director of a metropolitan housing authority. As discussed in Op. No. 87-019, the term "public servant" included any "public official," and that term referred to "any elected or appointed officer, or employee, or agent of the state or any political subdivision thereof." Op. No. 87-019 concluded that the director of a metropolitan housing authority was a "public servant," for purposes of R.C. 2921.01, since he was an officer or employee of a political subdivision of the state.

The statement in Op. No. 87-019 that a metropolitan housing authority is a political subdivision of the state was based on *Cuyahoga Metropolitan Housing Authority v. City of Cleveland*, 342 F. Supp. 250 (N.D. Ohio 1972), *aff'd*, 474 F.2d 1102 (1973), and *Country Club Hills Homeowners Association v. Jefferson Metropolitan Housing Authority*, 5 Ohio App. 3d 77, 449 N.E.2d 460 (Jefferson County 1981). The *Cuyahoga Metropolitan Housing Authority* case found that a

metropolitan housing authority was a political subdivision of the state for purposes of the principle that one political subdivision cannot subject another political subdivision to its laws in the absence of express statutory authority. The court found that a city ordinance that attempted to interfere with the activities of a metropolitan housing authority was invalid. The *Country Club Hills* case was a taxpayers' suit to enjoin the construction of housing by a metropolitan housing authority. The court cited the *Cuyahoga Metropolitan Housing Authority* case for the proposition that a metropolitan housing authority is a political subdivision, but went on to find that the taxpayers lacked standing to bring the action.

You have not requested a reconsideration of the merits of Op. No. 87-019, and this opinion does not address that matter. It is, however, clear that it is possible for a metropolitan housing authority to be classified as a political subdivision for certain purposes, *see, e.g.*, Op. No. 87-019; 1972 Op. Att'y Gen. No. 72-039; 1960 Op. Att'y Gen. No. 1736, p. 625, and not to be classified as a subdivision for purposes of R.C. Chapter 5705. In each case, the meaning of the statute in question is controlling. *See generally, e.g., Wachendorf v. Shaver*, 149 Ohio St. 231, 78 N.E.2d 370 (1948) (syllabus, paragraph 5).

A discussion of the variety of meanings given to the term "political subdivision" appears in 1983 Op. Att'y Gen. No. 83-059, at 2-247, as follows:

The term "political subdivision" is susceptible of a wide variety of definitions, depending upon the context in which it is used. *See, e.g.*, R.C. 2743.01(B) (defining "[p]olitical subdivisions" for purposes of Court of Claims provisions); R.C. 3501.01(T) (defining "[p]olitical subdivision" for purposes of elections provisions); R.C. 5705.01(A) (defining "[s]ubdivision" for purposes of tax levy law); R.C. 5713.081 (defining "political subdivision" for purposes of the collection of delinquent taxes levied on real property owned by the public); R.C. 5915.01(F) (defining "[p]olitical subdivision" for purposes of civil defense). In its general sense, the term "political subdivision" is used "to encompass all types of public agencies authorized to exercise governmental functions," 1979 Op. Att'y Gen. No. 79-018, at 2-59, and it is this sense in which the term is used in R.C. 117.01. *See generally* 1972 Op. Att'y Gen. No. 72-039 (concluding that a metropolitan housing authority is a political subdivision for purposes of R.C. Chapter 167) (1960 Op. Att'y Gen. No. 1736, approved and followed); 1972 Op. Att'y Gen. No. 72-035.

See also 1989 Op. Att'y Gen. No. 89-055 at 2-235 ("[m]any terms used in the Revised Code have varying meanings, depending upon the contexts in which they are used," citing various examples and authorities). Regardless of the meaning given to the term "subdivision" or "political subdivision" in other contexts, the definition of "subdivision" appearing at R.C. 5705.01(A) controls the meaning of that term as used in R.C. Chapter 5705. That definition *does not* include a metropolitan housing authority.

For the reasons discussed above, it is my opinion, and you are advised, that a metropolitan housing authority is not a "subdivision" for purposes of R.C. Chapter 5705.