

1289

1. VETERANS HOUSING FUND—ENTIRE SUM REMAINING TO CREDIT OF COUNTY VETERANS HOUSING FUND OF ANY COUNTY, DECEMBER 31, 1949, MUST BE PAID TO TREASURER OF STATE AND PLACED IN GENERAL REVENUE FUND OF STATE OF OHIO.
2. RENTALS—ALL OR ANY PART ARISING FROM HOUSING FACILITIES ACQUIRED BY COUNTY COMMISSIONERS NOT NEEDED FOR MAINTENANCE AND OPERATION OF SUCH FACILITIES MAY BE USED UNTIL DECEMBER 31, 1949—PURCHASE OR CONSTRUCTION OF ADDITIONAL HOUSES FOR VETERANS—SECTIONS 1078-62 TO 1078-71 G. C.
3. COUNTY COMMISSIONERS—TERMINATION OF POWERS GRANTED UNDER SECTION 1078-66 G. C.—UNEXPENDED BALANCE—COUNTY VETERANS HOUSING FUND—MUST BE DEPOSITED IN GENERAL REVENUE FUND OF COUNTY.

SYLLABUS:

1. The entire sum remaining to the credit of the county veterans housing fund of any county on December 31, 1949, regardless of the source of the moneys constituting the fund, must be paid to the Treasurer of State and placed in the general revenue fund of the State of Ohio.

2. All or any part of the rentals arising from the housing facilities acquired by county commissioners pursuant to Sections 1078-62 to 1078-71, inclusive, of the General Code, not needed for maintenance and operation of such facilities, may be used, until December 31, 1949, for the purchase or construction of additional houses for veterans.

3. Upon the termination of the powers granted the county commissioners under Section 1078-66, General Code, with respect to maintenance, operation and management of the properties referred to in syllabus 2, the unexpended balance remaining in the county veterans housing fund at that time must be deposited in the general revenue fund of the county.

Columbus, Ohio, December 15, 1949

Hon. Don H. Ebright, Treasurer of State
Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"Sections 1078-62 to 71 of the Ohio General Code enacted by the 96th General Assembly in special session provides for temporary emergency housing for veterans of World War II and their families.

Funds were appropriated by the State and Section 1078-63 authorizes County Commissioners to expend all or any part of the County Veterans' Housing Fund for the purpose of providing housing facilities until December 31, 1949.

Section 1078-66 provides for the management of those properties and the collection of rent. In part the Section says, 'All rents collected hereunder shall be deposited in the County Veterans' Housing Fund and not to exceed 90% of such rents collected may be used for the maintenance and the operation of the property.'

The first mentioned Section 1078-63 expires on December 31, 1949. While the second Section mentioned 1078-66 expires on December 31, 1951.

Section 1078-71 provides, 'Any sum remaining to the credit of the county veterans housing fund of a county on the thirty-first day of December, 1949 shall be paid to the treasurer of state and placed in the general revenue fund.

Will you kindly render an opinion on the following questions:

1. Is the State of Ohio entitled to receive all of the monies to the credit of the County Veterans' Housing Fund on December 31, 1949 or is the State to receive only the unexpended balance remaining in that Fund on that date from the original grant?

2. Inasmuch as only 90% of the rents collected may be used for the maintenance and operation of the property, may the remaining 10% of those rents be used for any other purposes such as acquiring additional facilities?

3. What disposition should be made of the funds remaining in the County Veterans' Housing Fund in excess of the 10% of the rents collected and not remaining in the Fund from the original grant?"

The Veterans Housing Act, Section 1078-62 et seq., General Code, (121 Ohio Laws, 806) has not to my knowledge been the subject of any court interpretation. It has, however, been the subject of several opinions of my predecessor in office.

The sole purpose of the Act is to provide temporary housing facilities for veterans of World War II to relieve the critical emergency that has existed by reason of the lack of living quarters available to returned veterans of the late war. Section 1078-62, General Code, provided for

an appropriation to the several counties of the state to be distributed according to population for the purpose of acquiring these housing facilities. The last paragraph of said section reads as follows:

“All moneys allocated to a county pursuant to the provisions of this act (G. C. §§1078-62 to 1078-71) shall be placed in a special fund in the treasury of the county to be known as the county veterans housing fund. The moneys allocated to the county veterans housing fund shall be expended only as provided in this act.”

Section 1078-64, General Code, authorizes the county commissioners to accept contributions from political subdivisions within the county, from the federal government and from persons, corporations and associations for the purpose of supplementing the “county veterans housing fund.” Section 1078-65, General Code, expressly authorizes all political subdivisions of the county to contribute funds to the “county veterans housing fund.”

Section 1078-66, General Code, from which you quote, provides that all rents collected under the provisions of the section shall be deposited in the “county veterans housing fund.”

It will thus be observed that the act, after creating the fund by Section 1078-62, puts into the same fund with the moneys appropriated by the legislature, all sums contributed by any political subdivision, person, corporation, association or the federal government as well as all rents arising from the operation of the housing facilities. There is, therefore, but one fund and that is the “county veterans housing fund.”

In considering a question regarding the use of the rentals collected from the operation of these housing facilities for the purpose of acquiring additional housing units for veterans, my predecessor in office in Opinion No. 2401. Opinions of the Attorney General for the year 1947, at page 571, made the following observation, with which I am in agreement:

“Obviously, when all of these rentals have been placed in that fund, they lose their identity and become a part of the aggregate fund which by the terms of the law is subject to expenditure for housing facilities. There is, however, the requirement that the county commissioners shall provide for the maintenance and operation of the properties acquired, and that not more than ninety percent of the rentals collected may be used for such maintenance and operation.”

Section 1078-68, General Code, provides for the expiration of the provisions of Sections 1078-63, 1078-64 and 1078-65 of the Act on December 31, 1949.

Section 1078-69, General Code, provides for the expiration of the provisions of Sections 1078-66 and 1078-67 on December 31, 1951.

In 1946 Opinions of the Attorney General, Opinion No. 1197, at page 668, my predecessor in office, while considering several questions concerning the veterans housing act, said with respect to the purpose of the different expiration dates:

“* * * Inasmuch, however, as Section 5 (§1078-66) also makes provision for the renting and management of these buildings it would appear that the purpose in providing a different time for expiration of Sections 2 and 5 (§§1078-63 and 1078-66) is based upon the idea that the emergency calling for the acquisition or erection of temporary housing facilities would be over by December 31, 1949, while it would be advisable and necessary to continue renting the same for two years thereafter, to-wit until December 31, 1951. The general assembly doubtless assumed, and with good reason, that the several boards of county commissioners would find ways of spending the money allotted to them within three years, but that the emergency requiring renting of the houses might continue somewhat longer.”

(Parenthetical matter added.)

After considering the matter and purpose of the act providing for temporary emergency housing for veterans of World War II and the general plan embodied therein to effect its purposes, it is reasonably clear that the fund created for the purpose of providing the housing facilities, regardless of the source of the moneys constituting the fund, is to be treated as an entirety. Consequently, by the provisions of Section 1078-71, General Code, which you have quoted in your request for my opinion, the entire sum remaining to the credit of the county veterans housing fund of any county on the thirty-first day of December, 1949, must be paid to you and placed in the general revenue fund of the State.

While I believe the foregoing is dispositive of all three of your questions, inasmuch as I interpret your second and third questions to be dependent upon a different conclusion to your first question, it is perceived that the second question may demand further consideration independently from the problem of the payment of the fund to you on December 31, 1949. The first question which could very likely arise is whether the

remaining 10% may be used between now and December 31st for acquiring additional facilities. This has been ably answered by 1947 Opinions of the Attorney General, No. 2401, *supra*, wherein the syllabus reads as follows:

“Under the provisions of Sections 1078-62 to 1078-71, inclusive, of the General Code, relating to emergency housing for veterans, all or any part of the rentals arising from such housing facilities, in so far as they are not needed for maintenance and operation of the same, may be used for the purchase or construction of additional houses for veterans.”

And this power of the county commissioners will continue until December 31st, at which time it will be terminated by the provisions of Section 1078-68.

The other question relates to the disposition of the 10% of the rentals collected after December 31, 1949, and until the expiration of the authority of the county commissioners to operate such units, which 10% is not authorized to be expended for maintenance and management of the properties. No specific provision has been made for the disposition of the balance of the fund remaining on December 31, 1951.

Section 1078-70, General Code, specifically provides, however, for sale of the property acquired in accordance with the provisions of the Act and the deposit of the proceeds of such sale in the general revenue fund of the county. This section was interpreted by my predecessor in office in 1946 Opinions of the Attorney General, No. 1197, *supra*, as a provision to be exercised for the purpose of liquidation of the properties after the shortage of housing veterans has been relieved and the purposes of the Act accomplished. I am in agreement with this reasoning and am inclined to the further position that it may be implied from said section that upon the termination of the powers granted the county commissioners with respect to maintenance, operation and management of such properties under Section 1078-66, the unexpended balance remaining in the county veterans housing fund at that time shall be likewise deposited in the general revenue fund of the county in order to effect a complete liquidation of the powers and duties imposed by the Act.

In view of the foregoing, it is my opinion, therefore, that:

1. The entire sum remaining to the credit of the county veterans housing fund of any county on December 31, 1949, regardless of the source

of the moneys constituting the fund, must be paid to the Treasurer of State and placed in the general revenue fund of the State of Ohio.

2. All or any part of the rentals arising from the housing facilities acquired by county commissioners pursuant to Sections 1078-62 to 1078-71, inclusive, of the General Code, not needed for maintenance and operation of such facilities, may be used, until December 31, 1949, for the purchase or construction of additional houses for veterans.

3. Upon the termination of the powers granted the county commissioners under Section 1078-66, General Code, with respect to maintenance, operation and management of the properties referred to in syllabus 2, the unexpended balance remaining in the county veterans housing fund at that time must be deposited in the general revenue fund of the county.

Respectfully,

HERBERT S. DUFFY,
Attorney General.