

## OPINION NO. 75-039

## Syllabus:

1. The purchase or acquisition of real estate is among activities which Community Action Agencies are authorized to pursue under the Economic Opportunity Act, 42 U.S.C.A., Ch. 34 (Supp. 1975).

2. The Department of Economic and Community Development may under the authority of Amended Sub. H. B. 86 authorize the expenditure of state monies by a qualified community action agency for the purchase or acquisition of real estate subject to other restrictions of the Economic Opportunity Act.

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To: James A. Duerk, Director, Dept. of Economic and Community Development,  
Columbus, Ohio

By: William J. Brown, Attorney General, May 27, 1975

I have before me your request for my opinion which reads in part as follows:

"1. Assuming that an organization is qualified for assistance under the Economic Opportunity Act, as provided in Amended Substitute House Bill No. 86, am I correct in concluding that because neither the Economic Opportunity Act nor the regulations promulgated pursuant thereto specifically authorize the purchase or acquisition of real estate by such organization, and because the general policy of OEO is to prohibit such purchase or acquisition of real estate, any such purchase

or acquisition by the organization except as provided in OEO Instruction 6803-01 would not be an 'activity'iesl those organization[s] are authorized by such act to pursue' as contemplated within the meaning of Amended Substitute House Bill No. 86?

"2. In the event that you determined that the purchase or acquisition of real estate is an activity authorized by the Act as contemplated by Amended Substitute House Bill No. 86, could I then properly conclude that the Department of Economic and Community Development may under the authority of Amended Substitute House Bill No. 86, authorize the expenditure of State monies by a grantee for the purchase or acquisition of real estate?"

The paragraph of Am. Sub. H.B. No. 86 with which you are concerned reads in part as follows:

"Of the foregoing appropriation for operating expenses for fiscal year 1974, \$3,000,000 shall be allocated for grants to organizations which between July 1, 1972 and June 30, 1973, received Federal financial assistance pursuant to sections 221 and 231 of the Economic Opportunity Act of 1964, as amended (42 U.S.C.A. Sec. 2808, 2824, and 2862) for activities those organizations are authorized by such act to pursue. . . . The Department of Economic and Community Development shall have the power to prescribe regulations governing the activities and structure of those organizations accepting funds allocated to them."

(Emphasis added.)

The language which is emphasized in the quote is clear and unambiguous. The designated state funds may only be utilized for activities authorized by the Economic Opportunity Act, 42 U.S.C.A. Ch. 34 (Supp. 1975). Accordingly, the issue you have raised is whether the purchase of real estate is an authorized activity under that Act.

To determine the issue I have reviewed the Economic Opportunity Act, the regulations promulgated pursuant to it and the policy guideline materials of the Community Services Administration (which administers the Act) that you enclosed with your letter. As a result of that review it can be stated that there is clearly no prohibition against the purchase of real estate by an organization qualified for assistance under that Act. While the policy guidelines do establish a cautious concern on the part of Community Services Administration (previously the Office of Economic Opportunity) where the purchase of real estate is proposed, that concern is of itself evidence that such purchases are contemplated as an authorized activity. I therefore conclude that it would be error to deny funds for the acquisition of real estate to an otherwise qualified organization on the basis that such a purchase is not an authorized activity under the Economic Opportunity Act. This conclusion is in line with the position of the Regional Director of the Community Services Administration as evidenced by his letter to your office, a copy of which you supplied subsequent to your request.

You also asked whether the Ohio Department of Economic and Community Development may authorize an expenditure of the

monies appropriated in Amended Sub. H. B. No. 86 for the purchase of real estate. In this regard attention must be focused on the last quoted sentence of the Bill. There the General Assembly granted the Department authority to regulate the activities and structures of organizations qualifying for assistance under the Economic Opportunity Act. Accordingly, I have reviewed the regulations published by the Department which you supplied for our consideration in order to resolve this question.

Section 5 of the regulations (which are captioned "General Conditions Governing State Grants to Ohio Community Action Agencies") provides in pertinent part:

"No grant funds may be expended or costs incurred for the purchase of real property without prior state approval."  
(Emphasis added.)

This regulation is a valid exercise of the regulatory power of the Ohio Department of Economic and Community Development, and it as well as Amended Sub. H. B. No. 86 clearly establish that the purchase of real estate is a matter within the Department's discretion. Therefore, the purchase of real estate by an otherwise properly qualifying organization may be authorized by the Department of Economic and Community Development where the Department deems authorization appropriate.

In specific answer to your request it is my opinion and you are so advised that:

1. The purchase or acquisition of real estate is among activities which Community Action Agencies are authorized to pursue under the Economic Opportunity Act, 42 U.S.C.A. Ch. 34 (Supp. 1975).
2. The Department of Economic and Community Development may under the authority of Amended Sub. H. B. No. 86 authorize the expenditure of state monies by a qualified community action agency for the purchase or acquisition of real estate, subject to other restrictions of the Economic Opportunity Act.