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HOUSING FUND, VETERANS—EMERGENCY, TEMPORARY—
MAY BE USED FOR TEMPORARY HOUSING FACILITIES—
RESIDENTS OF COUNTY—LOCATION OF HOUSING FACILI-
TIES TO BE ACQUIRED AND USED MAY BE IN ANOTHER
COUNTY.

SYLLABUS:

Moneys allocated to a county under the provisions of House Bill No. 508 of the 96th General Assembly for temporary emergency housing for veterans of World War II may be used to provide temporary housing facilities for such veterans, residents of such county, although the location of the housing facilities so to be acquired and used may be in another county.

Columbus, Ohio, September 24, 1946

Hon. Mathias H. Heck, Prosecuting Attorney
Dayton, Ohio

Dear Sir:

I have before me your communication requesting my opinion and reading as follows:

“The County Commissioners of Montgomery County are confronted with a question concerning which the Board desires a ruling from your office.

It involves the construction of House Bill No. 508 entitled:

‘To provide immediate temporary emergency housing for veterans of World War II and their families, and to declare an emergency.’

Montgomery County has a large number of veterans of World War II with families, and we also have here a very troublesome housing shortage. The acquisition of housing facilities in Montgomery County at the present time is hopeless.

The Board of County Commissioners desire to use the appropriation under House Bill No. 508 as advantageously as possible, and to meet the emergency of housing shortage for veterans of World War II existing in this county as quickly as possible.

Housing facilities are now available at Patterson Field, a Federal Government headquarters, located in the adjoining county of Greene. These housing facilities were used by the Army during the war, but are now vacant, and if immediate

action can be taken, can be made available for the temporary use for veterans and their families of World War II, residents of Montgomery County.

The question the Board desires you to answer is: Can the money allotted to Montgomery County under House Bill No. 508 to provide immediate temporary housing for veterans of the World War II and their families, be used in the existing emergency, to provide temporary housing facilities for veterans of World War II and their families, residents of Montgomery county, the location of the housing facilities to be temporarily acquired, being located in Greene County an adjoining county."

The act to which you refer was passed at the recent session of the General Assembly as an emergency measure and by its terms it indicates the desire and intention of the General Assembly to provide means for temporary housing for veterans at the earliest possible time and in the most direct possible way. The general purpose of the act is indicated by Section 2, which reads as follows:

"The county commissioners of each county are hereby authorized to expend all or any part of their county veterans housing fund *for the purpose of providing immediate temporary emergency housing facilities for residents of their counties* who were members of the armed forces of the United States who have served in World War II and have been discharged other than dishonorably, and for their families." (Emphasis supplied.)

Section 5 of the act appears to me to be a more specific statement of the procedure to be followed and the methods that may be employed by the commissioners in carrying out the general purpose above stated. In said section it is provided:

"The county commissioners of each county in order to provide housing facilities are hereby authorized to acquire by purchase, lease, gift or otherwise improved or unimproved land, structures, materials, equipment, facilities and services and to erect structures for the purpose of making such temporary emergency housing available. The title to said property shall be in the county commissioners of the county. * * *"

Since county commissioners are authorized under the above provisions to acquire land or structures by *lease* or *otherwise*, it is obvious that the language which requires the title to property acquired to be in the county commissioners does not imply that such title must be a fee simple title.

In view of the modes of acquisition prescribed by the above language, it appears that a limited right to use property for the purpose intended by the act is authorized, whether such right is defined by lease, license or otherwise.

I assume from your letter that the facilities that are available, and which are located over the line in Greene County, belong to the Federal Government and that they may be obtained for your purpose by some instrument of lease or license. That being the fact, the only question remaining is whether the county commissioners of Montgomery County would be permitted, under the terms of the act, to spend the money allocated to them on the improvement of property located outside of their own county.

I see nothing in the terms of the act which would in anywise limit county commissioners to acquiring property in their own county nor is there anything therein which, in terms, prohibits the acquisition of housing facilities located in another county.

The language of Section 6 of the act which requires county commissioners to report to the Treasurer of State on the provisions which have been made for veterans' housing within the county could hardly be said to operate as a limitation with respect to where property acquired shall be located. In my opinion, a full compliance with said provisions would be had if, in such reports, the provisions made for veterans' housing, both within and without the county, were reported. The essential element is that such housing facilities are available for and are to be rented to veterans who are *residents of the county*.

Since these housing facilities are, by the terms of the act, only temporary, the occupants who are legal residents of Montgomery County would not cease to be such residents by being temporarily housed in another county.

As the act is a relief measure and as such entitled to a liberal construction in conformity with its purpose, it seems to me that the construction which will effectuate such purpose should, unless it violates the clear letter thereof, be given the act.

It is, therefore, my opinion, in specific answer to your question, that the money allocated to your county under House Bill No. 508, passed

by the recent session of the General Assembly, providing immediate housing for veterans of World War II and their families, may be used to provide temporary housing facilities for such veterans, residents of such county, although the location of the housing facilities so to be acquired and used may be in another county.

Respectfully,

HUGH S. JENKINS
Attorney General