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1. A BOARD OF COUNTY COMMISSIONERS MAY SELL AN APARTMENT BUILDING ERECTED FOR VETERANS TO ONE OF THE ACTUAL TENANTS AT THE APPRAISED VALUE.
2. SEVERAL SUCH TENANTS PURCHASING THE BUILDING BECOME TENANTS IN COMMON EACH WITH AN UNDIVIDED INTEREST IN SUCH PROPERTY—§3735.611, R.C.

SYLLABUS:

1. Where under Section 3735.611, Revised Code, a board of county commissioners elects to sell an apartment building which it erected for veterans' housing, such apartment building may be purchased by one of the actual tenants thereof at the appraised value.

2. If more than one of the actual tenants of an apartment building accept an offer to sell such building pursuant to Section 3735.611, Revised Code, the building may be sold to these tenants, who then become tenants in common each with an undivided interest in such property.

Columbus, Ohio, May 27, 1961

Hon. Everett Burton, Prosecuting Attorney  
Scioto County, Portsmouth, Ohio

Dear Sir :

Your request for my opinion reads as follows :

“The Board of County Commissioners of Scioto County, Ohio, pursuant to Section 3735.611, Ohio Revised Code, has adopted a Resolution to sell property which had been acquired under the provisions of the Statutes relating to Veterans Housing. This Veterans Housing consists of several buildings which are multiple dwelling units. Specifically, these buildings are comprised of three to four apartments each, and the individual living units are not practicably separable.

“Section 3735.611 of the Revised Code provides that upon the decision of the Board of County Commissioners to sell such property, ‘if it is to be sold for residential occupancy, (such property) shall first be offered for sale *to the actual tenant thereof*’.

“It is obvious that the Legislature did not contemplate the existence of such apartment buildings in drafting the Statute, and thus the following questions have arisen, which we hereby submit for your consideration :

“1. In the event that one tenant of one of the apartments should elect to purchase, does such right to purchase apply to the entire building, of which only one apartment is actually being occupied by that tenant ; to only the apartment actually occupied by the tenant ; or does the language of the Statute prohibit purchase in this case by the tenant, since the right to purchase exists only where the building is to be sold ‘for residential occupancy’?

“2. If the occupant of an apartment has the right to purchase the entire building, what procedure is to be followed if more than one of the tenants in such building elect to exercise the right to purchase?

“For your information, it is our thought that the Statute applies only to the sale of single dwelling buildings and that, in the case of multiple dwelling type buildings, the property could only be sold at public sale.

“It is respectfully requested that your office furnish us an opinion with respect to these matters.

“We will appreciate your giving this matter your earliest attention, as it is the desire of the Board of County Commissioners to dispose of the property in question as soon as possible.”

Under the Veterans Emergency Housing Act of 1946, 121 Ohio Laws 806, boards of county commissioners were given authority to acquire "improved or unimproved land, structures, materials, equipment, facilities, and services," and to "erect structures" for the purpose of making veterans housing available. Such authority expired on December 31, 1957 pursuant to Section 3735.60, Revised Code. Under the provisions of Section 3735.61, Revised Code, the board of county commissioners of any county which has acquired property in accordance with the Housing Act of 1946, *supra*, "may sell any or all of said property." (Emphasis added.) In 1955 the legislature enacted Section 3735.611, Revised Code, as part of Amended House Bill No. 12 (126 Ohio Laws 376). The title of the bill reads as follows:

"To enact supplemental Sections 3735.611 to 3735.615, inclusive, of the Revised Code, relative to the sale of veterans' housing property to the *tenants* thereof."

(Emphasis added)

Section 3735.611, *supra*, provides as follows:

"Upon the decision of the board of county commissioners, as provided by Section 3735.61 of the Revised Code, to sell property, real or personal, acquired in accordance with volume 121 Ohio Laws, page 806, Sections 1 to 10, inclusive, or upon the expiration of Section 3735.60 of the Revised Code, *such property if it is to be sold for residential occupancy, shall first be offered for sale to the actual tenant thereof.* Such offer shall be in writing and signed by the clerk or a member of the board.

"The price at which such property shall be offered for sale to such tenant shall be the appraised value as determined by Section 3735.613 of the Revised Code.

"If such tenant does not accept in writing the offer of the board within sixty days next following such offer the property may be sold as provided by Section 3735.61 of the Revised Code." (Emphasis added)

Although the legislature used the word "tenant" in the singular form in Section 3735.611, *supra*, it is used in the plural form in the Housing Act of 1946, *supra*, to which Section 3735.611, *supra*, is supplemental. Construing the statutes in *pari materia*, it is apparent that the legislature intended the word "tenant" to include the plural form "tenants." Also in this regard, Section 1.10, Revised Code, provides as follows:

“As used in the Revised Code, unless the context otherwise requires:

“\* \* \*

\* \* \*

\* \* \*

“(C) Words in the plural number include the singular number, and words in the singular number include the plural number.”

The legislature also used the word “residential” which is the adjective form of the singular noun “residence.” A question arises, therefore, whether the clause, “if it is to be sold for residential occupancy,” limits the application of Section 3735.611, *supra*, to the sale of single type dwellings. In this regard, Newman, J. speaking for the court in *Hunt v. Held*, 90 Ohio St., 280 (1914), stated at page 283 of the opinion as follows:

“\* \* \* The word ‘residence,’ as we view it, is equivalent to ‘residential’ and was used in contra-distinction to ‘business.’ If a building is used as a place of abode and no business carried on it would be used for residence purposes only *whether occupied by one family or a number of families.* \* \* \*”

(Emphasis added)

It is my opinion, therefore, that the words “residential occupancy” do not limit the application of Section 3735.611, *supra*, to the sale of single type dwellings.

Regarding your first question concerning the right of a tenant to purchase the entire apartment building or only the particular apartment which he is actually occupying, it is obvious that his right to purchase will depend on what property, if any, the board of county commissioners decides to offer for sale.

Under the provisions of Sections 3735.61 and 3735.611, *supra*, a board of county commissioners may or may not offer for sale any or all of the property, real or personal, which they have acquired pursuant to the Housing Act of 1946, *supra*. Opinion No. 3184, Opinions of the Attorney General for 1953, page 560. If a board of county commissioners could somehow offer for sale only one apartment in an apartment building, then under the provisions of Section 3735.611, *supra*, they would first have to offer it for sale to the actual tenant of that apartment. Although all of the tenants living in the same building would be tenants of that building, they would not all be tenants of the one apartment offered for sale. On the other hand, if the board should decide to offer the entire building for sale, then any one of the tenants would be an actual tenant of that building.

In the event that only one tenant should decide to accept the offer, I can see no reason why he could not do so.

In regard to your second question, if all of the tenants of the building should decide to accept the offer, then they would become tenants in common each having an undivided interest in the property.

It is my opinion, therefore, and you are accordingly advised:

1. Where under Section 3735.611, Revised Code, a board of county commissioners elects to sell an apartment building which it erected for veterans' housing, such apartment building may be purchased by one of the actual tenants thereof at the appraised value.

2. If more than one of the actual tenants of an apartment building accept an offer to sell such building pursuant to Section 3735.611, Revised Code, the building may be sold to these tenants, who then become tenants in common each with an undivided interest in such property.

Respectfully,

MARK McELROY

Attorney General