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A BUILDING AND LOAN ASSN. CANNOT MAKE A LOAN FOR THE ACQUISITION OF DEVELOPED LAND—A BUILDING AND LOAN ASSN. MAY MAKE A LOAN ON LAND OWNED BY THE APPLICANT FOR THE PURPOSE OF DEVELOPMENT—A BUILDING AND LOAN ASSN. CANNOT MAKE A LOAN ON DEVELOPED LAND OWNED BY THE APPLICANT.—§1151.298, R.C.

SYLLABUS:

1. A building and loan association is not authorized under the provisions of Section 1151.298, Revised Code, to make a loan on real estate for the acquisition of land which is already developed, within the meaning of the section, for primarily residential use.

2. A building and loan association is authorized under the provisions of Section 1151.298, Revised Code, to make a loan on real estate which is already owned by the loan applicant but which is either undeveloped or partially developed for the purpose of the development of such for primarily residential use.

3. A building and loan association is not authorized under the provisions of Section 1151.298, Revised Code, to make a loan on real estate which is already owned by the loan applicant and is already developed, within the meaning of the section.

Columbus, Ohio, May 15, 1962

Hon. Andrew C. Putka, Superintendent of Division of Building & Loan Associations
407 State Office Building, Columbus 15, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“It is my desire to submit to you for opinion the following questions:

“1. Under the provisions of Section 1151.298 of the Revised Code, is a building and loan association authorized to make a loan on real estate for the acquisition of land which is already developed, within the meaning of said section, for primarily residential use?

“2. Under the provisions of Section 1151.298 of the Revised Code, is a building and loan association authorized to make a

loan on real estate which is already owned by the loan applicant and is either undeveloped or partially developed for the development thereof for primarily residential use?

"3. Under the provisions of Section 1151.298 of the Revised Code, is a building and loan association authorized to make a loan on real estate which is already owned by the loan applicant and is already developed, within the meaning of said section?" The first paragraph of Section 1151.298 Revised Code in which is stated the main purpose of that section, reads as follows:

"A building and loan association may make loans to members and others upon obligations secured by real estate for the acquisition of undeveloped or partially developed land and the development thereof for primarily residential use subject to the procedures of section 1151.292 of the Revised Code except division (D) thereof, and subject to the following limitations and procedures:

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The statute plainly states that a building and loan association may make loans to members and others upon obligations secured by real estate for the acquisition of undeveloped or partially developed land and the development thereof for primarily residential use. No mention is made of loans for the acquisition of real estate already developed within the meaning of this section.

The last paragraph of the section defines the word "development," reading as follows:

"For the purposes of this section, 'development' includes the survey and platting of such land, the laying out and improvement of streets, the installation of water lines and mains, sewers, sidewalks, curbs, and facilities for the disposal of sewage, and the installation of such other improvement as may be necessary or advisable to prepare such land for primarily residential use."

In answer to your first question, therefore, I would conclude that a building and loan association may not, under the provisions of Section 1151.298, Revised Code, make a loan on real estate for the acquisition of land which is already developed, within the meaning of the section, for primarily residential use.

Coming to the second question, under the language of the statute a building and loan association is authorized to make loans for the acquisition of land *and* to make loans for the development of undeveloped or partially developed land. Thus, such an association may loan money on real

estate which is owned by the loan applicant for the purpose of developing undeveloped or partially developed land.

I believe my answer to your first question is dispositive of your third question. If the land is already fully developed, within the meaning of the section, then no matter who the owner may be money may not be loaned under the authority of Section 1151.298, Revised Code. If the land is already owned and already developed then the purposes of the section are satisfied and no other purposes are authorized by the section.

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

1. A building and loan association is not authorized under the provisions of Section 1151.298, Revised Code, to make a loan on real estate for the acquisition of land which is already developed, within the meaning of the section, for primarily residential use.

2. A building and loan association is authorized under the provisions of Section 1151.298, Revised Code, to make a loan on real estate which is already owned by the loan applicant but which is either undeveloped or partially developed for the purpose of the development of such for primarily residential use.

3. A building and loan association is not authorized under the provisions of Section 1151.298, Revised Code, to make a loan on real estate which is already owned by the loan applicant and is already developed, within the meaning of the section.

Respectfully,

MARK McELROY

Attorney General