



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2217 Topeka, Kansas 66612

CURT T. SCHNEIDER
Attorney General

September 15, 1975

ATTORNEY GENERAL OPINION NO. 75- 364

Mr. Arthur N. Turner
City Attorney of Newton
120 East 7th Street
Newton, Kansas 67114

Re: Cities--Housing Authorities--Management Contracts

Synopsis: It is within the authority of the Municipal Housing Law, K.S.A. 17-2337 *et seq.*, for a local housing authority created thereunder and delegated the powers granted thereby, to operate a housing project for a private developer, which project is to serve persons of low income and elderly persons as defined pursuant to the Act.

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Dear Mr. Turner:

You advise that the City of Newton has pursuant to K.S.A. 17-2340 established the Housing Authority of the City of Newton, and delegated to it the powers provided by art. 23, ch. 17, K.S.A. At the present time the Authority manages and operates a high-rise building for the elderly consisting of 100 units and which is leased by the Authority from a private, non-profit corporation under a lease agreement approved by Department of Housing and Urban Development.

The city now has an inquiry from a private developer, questioning whether, if he constructs section 8 housing for the elderly, which is 100 percent subsidized by the Department of Housing and Urban Development, the Authority is empowered to contract with him to undertake the management of the facility at a determined fee. The management duties of the Authority would consist of the maintenance and upkeep of the units, the rental of units and processing of applications, collection of rents, termination of rentals, monthly reports

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The Municipal Housing Law, K.S.A. 17-2337 *et seq.*, confers broad powers on municipal governing bodies respecting housing for persons of low income and elderly persons, these all being powers delegated to the local housing authority in this instance. The term "housing project" is defined at K.S.A. 17-2339(i) to include "any work or undertaking to provide decent, safe and sanitary urban or rural dwellings, apartments, or other living accommodations for persons of low income. Under K.S.A. 17-2347, the city may "prepare, carry out, and operate housing projects," and may "arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works, or facilities for, or in connection with, a housing project or the occupants thereof . . . ," and may "exercise all or any part or combination of powers herein granted." The express and implied powers granted by the act are expansive, and certainly, in my judgment permit the local housing authority to operate a housing project for the elderly and for low income persons, as defined pursuant to the act, regardless of ownership of the project, whether public or private.

From the standpoint of general municipal law, the only caveat to such management and operation is that the Authority is thereby undertaking an activity otherwise operated by private parties, i.e., is thereby engaging in a commercial activity beyond the scope of proper municipal concerns. However, the very terms of the Act are drawn to permit municipalities to engage in the construction, acquisition, operation, rental and sale of property for the purposes of providing housing for low income and elderly persons. It is certainly within the scope of these permitted activities, in my judgment, for the local housing authority in Newton to contract to operate a housing project or facility for a private party, for the purpose of providing housing to those low income and elderly persons whom the Authority was created to serve in the first instance.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj