



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

January 23, 1978

ATTORNEY GENERAL OPINION NO. 78- 32

Mr. Otis W. Morrow
City Attorney
City Building
Arkansas City, Kansas 67005

Re: Cities--Industrial Revenue Bonds--Uses

Synopsis: Proceeds of industrial revenue bonds of a city issued under K.S.A. 12-1740 et seq. may be used for the construction of a multiple-family residential development project.

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Dear Mr. Morrow:

On behalf of the City of Arkansas City, you request my opinion whether K.S.A. 1977 Supp. 12-1741 authorizes the issuance of industrial revenue bonds of the city for the construction of a commercial housing project. You indicate that it has been proposed that the city issue bonds for the construction of multiple-family residential housing units, utilizing the concept of "zero lot line" development, with the land shared by all residents.

K.S.A. 1977 Supp. 12-1741 provides that the proceeds of industrial revenue bonds will be used only for

"agricultural, commercial, hospital, industrial, natural resources recreational development and manufacturing facilities with power to enter into leases or lease-purchase agreements by ordinance with any person, firm or corporation for said facilities"

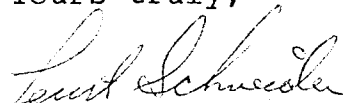
Mr. Otis W. Morrow
Page Two
January 23, 1978

In Opinion No. 75-410, following an opinion dated September 11, 1964, issued by Attorney General William Ferguson, we concluded that construction of a highrise residential facility was within the authority of the foregoing quoted language. In that 1964 opinion, Attorney General Ferguson stated thus, referring in part to an earlier opinion of his office:

"You will notice that it was the opinion of this office that the announced legislative declaration of purpose contained in the Industrial Revenue Bond Act would not allow us to apply the strict and narrow meaning of the term 'commercial,' as such term is used in the act. We also pointed out that the broader meaning of such term would now seem to embrace all activities designed to produce a profit."

In view of the concededly inclusive construction which is given the term "commercial" in the act, I can discern no substantial distinction between a highrise residential apartment facility, and a multiple-family residential development employing other architectural and design features, such as the "zero lot line" concept you mention. I assume that, in keeping with the requirement that the "facility" be commercial, that the project would be owned by the city issuing the bonds, and leased to a corporation or other business entity which would operate the project on a for-profit basis, with individual units rented or subleased to tenants or made available for purchase if appropriate protections are fashioned for the protection of bondholders.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj