

STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

May 24, 1977

ATTORNEY GENERAL OPINION NO. 77-171

Mr. A. F. Van Alstyne
Chairman
Housing Authority of the
City of Chanute
300 West Walnut
Chanute, Kansas 66720

Re: Cities--Housing Authorities--Payments in Lieu of Taxes

Synopsis: Nothing in article 17, chapter 17, K.S.A. prevents a city or county which is party to an agreement with a municipal housing authority created thereunder to enter into a further agreement for the deferral of payments in lieu of taxes from said Housing Authority for such period as is consistent with the maintenance of the low-rent character of the housing project and the achievements of the purposes of the act.

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Dear Mr. Van Alstyne:

You advise that regulations regarding the leasing of the 92 units of public housing operated by the Housing Authority of the City of Chanute, and formulas for the determination of rent charged for such units which have been promulgated by the U.S. Department of Housing and Urban Development, have limited the total rent income to a levy which has been insufficient for maintenance and operating expenses during each of the years since the first units were occupied in 1973. As a result, the Authority has been unable to make any payments in lieu of taxes to the City of Chanute. Accordingly, the board of commissioners of the City of Chanute has adopted a resolution deferring collection of payments in lieu of taxes, until such time as the Authority is able to make such

Mr. A. F. Van Alstyne
Page Two
May 24, 1977

payments, subject to the concurrence of the board of county commissioners of Neosho County, because of the county's interest in proceeds of the payments.

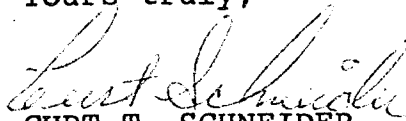
Before requesting the county commissioners to act on this matter, you request my opinion whether any provision of Kansas law would prevent the board of county commissioners from forgiving or deferring payments in lieu of taxes.

Under K.S.A. 17-2346, the Authority is authorized to "make such payments in lieu of taxes . . . as it determines are consistent with the maintenance of the low-rent character of projects." K.S.A. 1976 Supp. 17-2349 states thus:

"The property acquired or held pursuant to this act is declared to be public property used exclusively for essential city, municipal public and governmental purposes and such property shall be exempt from all special assessments of the state or of any state public body. In lieu of taxes on such property a municipality or authority shall agree to make payments to the state or a state public body (including itself) as it finds consistent with the maintenance of the low-rent character of housing projects and the achievements of the purposes of this act."

Under this section, agreements for payments in lieu of taxes are mandatory. However, there is no statutory provision which prevents the parties to such an agreement to agree to defer those payments for so long a period as is consistent with the maintenance of the low-rent character of the housing projects and the achievement of the purposes of the act.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj