



WILLIAM J. SCOTT
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

April 13, 1978

FILE NO. S-1356

FINANCE:

**Medical Center Commission's Use
of Rental Income for Improvement
and Purchase of Property**

Mr. Park Livingston, President
Medical Center Commission
736 South Ashland Avenue
Chicago, Illinois 60607

Dear Mr. Livingston:

You have asked for my opinion on the legality of the Medical Center Commission's making certain proposed expenditures from the income received from the rental or sale of properties held by the Commission. The proposed expenditures are for:

1. Preparation of sites which the Commission already owns.
2. Demolition of derelict buildings on property the Commission owns.
3. Expenses related to the cost of vacating streets and alleys, including the relocation of utility

Mr. Park Livingston - 2.

and sewage lines under the streets, where the Commission owns contiguous property.

4. Expenses related to use value hearings and the administrative review of such hearings, which are required as part of the process to determine the use to which property owned by the Commission is to be put.
5. Acquisition of property.
6. Payment of taxes owed by previous owners which were or are to be deducted from the sale price for properties acquired or to be acquired by the Commission.
7. Expenses, such as cost of appraisals and court reports, related to condemnation hearings.

Section 10 of "AN ACT in relation to the establishment of a Medical Center District in the City of Chicago, etc." (Ill. Rev. Stat. 1975, ch. 91, par. 134) provides for income from the sale or rental of properties of the Commission to be used to pay off its bonds, or to operate, maintain, and improve Commission property:

"All money received by the Commission from the sale or lease of any property, in excess of such amount as may be necessary to satisfy the obligation of any revenue bond issued pursuant to Section 5, shall be paid into the State Treasury as provided in 'An Act in relation to the payment and disposition of moneys received for or on behalf of the State', approved June 9, 1911, as heretofore or hereafter amended, provided, however, the Commission is authorized to use all money received as rentals for the

Mr. Park Livingston - 3.

purposes of operation, maintenance and improvement of property of the Commission, but all money so received in excess of \$10,000.00 and not expended pursuant to this section, shall be paid into the State Treasury as above provided. * * *

The site preparation, demolitions and other improvements on Commission-owned property clearly qualify as "maintenance and improvement of property of the Commission" and they are authorized to be made from section 10 funds. Expenses related to street and alley vacation are also within a broad definition of improvements since the Commission owns the contiguous property. Expenses related to the use value hearings are required before property may be sold; thus they also relate to the operation, maintenance or improvement of property owned by the Commission. These expenses may also be made from section 10 funds.

Acquisition of property, however, is a different matter. Section 10, quoted above, does not mention direct capital expenditures as a permissible use of Commission rental income. On the contrary, it requires that all such money exceeding \$10,000 not used for retirement of bonds or operation, maintenance or improvement of property be paid into the State Treasury. Since acquisition does not fall within any of these categories, neither do expenses related to condemnation hearings or for payment of

Mr. Park Livingston - 4.

taxes. These relate to acquisition, not operation, maintenance or improvement.

Section 5 of the Act (Ill. Rev. Stat. 1975, ch. 91, par. 129) allows the Commission to issue bonds to finance acquisitions of property. I note further that Public Act 80-149, the appropriation to the Commission for the current fiscal year, provides \$40,000 for acquisition of land and demolition of structures, providing further evidence of legislative intent that acquisition costs not be paid from section 10 funds.

It may be argued that the Commission should be able to do directly, i.e., acquire property with section 10 funds, what it can do indirectly, i.e., acquire property through issuance of revenue bonds retired with section 10 funds. However, the General Assembly has not authorized this direct method. In section 10, the General Assembly has limited the amount of money which the Commission may accumulate. The limitation on the use of the funds prevents the Commission from acquiring a large reserve of property or funds. State agencies have no inherent right to keep money generated or produced from public funds. This limitation also allows the General Assembly to monitor the use of these funds. The General Assembly, which has appropriated

Mr. Park Livingston - 5.

money to the Commission to acquire property, has determined that when the property is sold or leased the income in excess of \$10,000 that is not used to pay bonds or used for the operation, maintenance or improvement of the property of the Commission must be returned to the State Treasury. The General Assembly then has the discretion to appropriate it for additional acquisitions or to put it to other uses.

Very truly yours,

A T T O R N E Y G E N E R A L