



WILLIAM J. SCOTT
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

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PUBLIC HEALTH:
Authority of a County Board
of Health To Mortgage Property
To Which It Has Title

Honorable Stephen Landuyt
State's Attorney
Henderson County
Oquawka, Illinois 61469

Dear Mr. Landuyt:

I have your letter wherein you inquire whether the Henderson County Board of Health may mortgage a piece of property to which it already has title in order to finance the construction of a building on the property. You also inquire whether a county board of health must obtain permission from the county board prior to exercising its powers to lease or acquire property under section 15.1 of "AN ACT in relation to the establishment and maintenance of county and multiple-county public health departments" (Ill. Rev. Stat. 1977, ch. 111½, par. 20c14.1). For the reasons here-

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inafter stated, it is my opinion that a county board of health may not mortgage property to which it already holds title in order to finance the construction of a building on the property. It is also my opinion that a county board of health need not obtain permission from the county board prior to exercising its powers under section 15.1.

Section 15.1 of the Act provides in pertinent part as follows:

"The board of health of each county or multiple-county health department is authorized to lease or to acquire by purchase, construction, lease-purchase agreement or otherwise and take title in its name and to give a purchase money mortgage, maintain, repair, remodel or improve such real estate as may be reasonably necessary for the housing and proper functioning of such health department. Money in the County Health Fund may be used for such purposes."

Although the above provision authorizes a board of health to "take title in its name and to give a purchase money mortgage", neither section 15.1 nor section 14 of the Act (Ill. Rev. Stat. 1977, ch. 111½, par. 20c13) authorizes a board of health to mortgage property which it already owns in order to borrow funds for the construction of a building to house the health department.

A board of health, like the county board, has only those powers expressly granted by statute or necessarily

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implied therefrom. (See People ex rel. Village of Hindsdale v. Board of Supervisors of Dupage County (1941), 309 Ill. App. 609, 615.) Therefore, because the only mortgage which a board of health is authorized to enter into is a purchase money mortgage, and because the mortgage which you have described is not in the nature of a purchase money mortgage, the board of health has no authority to enter into the mortgage contemplated.

I note that bonds may be issued pursuant to procedures set forth in sections 20 through 23 of the Act (Ill. Rev. Stat. 1977, ch. 111½, pars. 20c19 through 20c22) for the provision of buildings for or permanent improvement of community health facilities. Such procedures provide a method for financing projects such as the one in question.

Section 15.1 is a fairly broad grant of authority to a board of health. Neither that section nor any other provision requires a board of health to obtain county board approval prior to leasing or acquiring property for the purpose of housing the county health department.

The finances of a county board of health are under the general control of the county board pursuant to the provisions of section 11 of the Act (Ill. Rev. Stat. 1977, ch. 111½, par. 20c10), which gives the county board authority

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to levy a tax for the county health fund and to approve the budget of the board of health. Under section 11, the county board would, of course, be able to review a budgetary item of the board of health relating to the leasing or acquisition of property with monies from the county health fund. Such power does not, however, give the county board the power to approve or disapprove an action taken by the board of health pursuant to the authority granted to it in section 15.1. See 1950 Ill. Att'y. Gen. Op. 61.

Very truly yours,

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