

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

for the calender years

1961 - 1962

September 29, 1961

To: Earle R. Hayes, Executive Secretary, Maine State Retirement System

Re: Cancellation of Social Security Agreement with South Portland Housing Authority

Reference is made to your memo of September 18 to which you attached a copy of the letter from the Regional Representative, Bureau of Old-Age and Survivors Insurance.

The question seems to be whether or not a city may terminate a housing authority which has been active in that city.

The creation of a housing authority is set forth in Revised Statutes of 1954, Chapter 93, section 3, as follows:

“In each city and in each town there is created a public body corporate and politic to be known as the ‘Housing Authority’ of the city or town; provided, however, that such authority shall not transact any business or exercise its powers hereunder until or unless the governing body of the city or the annual meeting of the town, as the case may be, by proper resolution shall declare that there is need for an authority to function in such city or town;”

Section 4 of the same statute provides for the appointment of commissioners by the proper city or town officials. Apparently the City of South Portland at one time created a housing authority in accordance with section 3. Now the City of South Portland has decided it does not need an active housing authority and the City Council has passed an order attempting to terminate the housing authority in that city.

It is quite apparent that the legislature has created the housing authority and the city has only activated this authority. Chapter 93 does not provide for a method of terminating such an authority. Only the legislature can terminate a housing authority as it is the body which created it.

A city or town may suspend the active status of an authority by failure to have commissioners appointed on the completion of the term of office of current commissioners.

It would follow that the action of the City Council would simply suspend the operation of the authority but does not terminate it as a public body corporate and politic. Of course, it cannot function until it is revived and commissioners appointed, but this can be done at any time the City Council decides it is necessary.

GEORGE C. WEST

Deputy Attorney General

October 9, 1961

To: Warren G. Hill, Commissioner of Education

Re: School Construction Assistance under Chapter 41, Section 237-H

You have inquired whether or not a town which authorized school construction and sold a bond issue to finance the construction prior to August 28, 1957,