

MAINE STATE LEGISLATURE

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October 18, 1967

Edward C. Hinckley, Commissioner

Indian Affairs

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Maine Indian Housing Authority Law

FACTS:

A recent opinion of this Office rendered on September 15, 1967 held that the Maine Indian Housing Authority Law, which incorporates almost in toto the terms of the Maine Housing Authorities Act, did not give reservation Housing Authorities the authority to develop and operate water and sewer systems as part of housing projects. The 103rd Legislature, meeting in special session, enacted Chapter 497 of the Public Laws of 1967 as an amendment to section 4735 of Title 22 of the Revised Statutes which reads as follows:

"22 M.R.S.A. § 4735. Area of Operation.

"The area of operation of an authority is within the territorial boundaries of the reservation for which it is created. Each authority is empowered to construct, develop, operate and maintain water and sewer systems to insure that adequate water and sewer services are available to the housing project." (Emphasis supplied)

QUESTION:

Does the above-quoted statutory amendment empower reservation Housing Authorities to construct, develop and operate water and sewer systems?

ANSWER:

Yes.

OPINION:

In our opinion of September 15, 1967 we answered the above-stated question in the negative. The thrust of our opinion was

that reservation Housing Authorities had only those powers which Maine Housing Authorities possessed under the terms of the Maine Housing Authorities Act. 30 M.R.S.A. § 4551-4775. It was pointed out that Maine Housing Authorities and hence reservation Housing Authorities were authorized to provide sewers and water service in conjunction with establishing housing projects. It was further emphasized however that the terms "sewers" and "sewer systems" and "water service" and "water systems" were not synonymous and that neither Maine Housing Authorities nor reservation Housing Authorities were empowered to construct and operate "water systems" or "sewer systems."

That the Legislature intended that reservation Housing Authorities be empowered to provide, operate, and maintain water and sewer systems as an adjunct to the construction of housing projects could hardly be more clearly manifested. The language of the above-quoted amendment which became effective on October 2, 1967 speaks for itself and requires no further elaboration in regard to legislative intent.

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PMK/slf