

MAINE STATE LEGISLATURE

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November 1, 1973

James E. Mitchell, Director
Maine State Housing Authority
State House
Augusta, Maine 04330

Dear Mr. Mitchell:

In your letter dated October 25, 1973, a copy of which I note was sent to the Department of Indian Affairs, you request our opinion with respect to the following question:

"Can the Maine State Housing Authority use the agency of the Treasurer of the State of Maine to issue general obligation bonds for authorized purposes under Article 7(a) of subchapter 2 of Title 30, Maine Revised Statutes?"

Before addressing ourselves to this question, however, there is another matter which should be clarified.

As I read your letter, you appear to be suggesting that our opinion dated October 23, 1973, has forced you to cancel plans to issue bonds for the Indian Housing Insurance Program, and that our opinion may cause delay in the implementation of the program. I frankly do not understand how our opinion should cause any administrative delays, or what the issuance of bonds has to do with implementing the program.

As you know, the Legislature specifically appropriated \$15,000 to the State Housing Authority to carry out the Indian Housing Insurance Program. You do the Housing Authority, the Legislature, and this office a disservice if you attempt to use an opinion of this office (prepared and rendered at your request) as an excuse for whatever administrative difficulties you may be encountering in connection with the Indian Housing Insurance Program, or any

James E. Mitchell, Director
Maine State Housing Authority
Page Two
November 1, 1973.

other program.

Turning to the question relating to the State Treasurer, the statute provides the Authority "is authorized to issue up to \$1,000,000 in state general obligation bonds." § 4738. This provision is to be contrasted with 10 M.R.S.A. § 802 relating to MIBA which authorizes the Governor and Council to order the Treasurer of the State to issue bonds in the amounts requested within prescribed limits. Since the authority to issue bonds rests with the Housing Authority, the Authority, and not the Treasurer, is the governmental body responsible for issuance and for proper disposition of the proceeds.

If the State Treasurer, with his expertise in the area of bond issues desires to assist the Housing Authority in connection with the issuance of general obligation bonds, he may do so. However, the Authority has no power to compel the Treasurer to do what the Legislature has statutorily authorized it, and not the State Treasurer, to do.

We do note that a provision authorizing the Maine Housing Authority (as opposed to the State Treasurer) to issue general obligation bonds of the State is rather unusual, and represents a departure from the legislation which implemented §§ 14-A relating to MIBA and 14-B relating to MRA of Article IX, the counterparts of the Constitutional provision relating to the legislation under consideration. Presumably the Legislature had a particular purpose in mind when it saw fit not to make provision requiring the Authority to request funds from the Governor and Council who, in turn, direct their requests to the State Treasurer. The procedure outlined in the Housing Act is much swifter; and should the Authority, under the existing statutes, desire the bonds to emanate from the State Treasurer's Office, it can only effectuate those desires if the State Treasurer, in his sole discretion, desires to assume and share what has been made the Authority's responsibility.

Yours very truly,

JON A. LUND
Attorney General

JAL/jwp