

MUNICIPAL HOUSING AUTHORITY:  
LAND CLEARANCE FOR REDEVELOPMENT AUTHORITY:  
INTEREST:

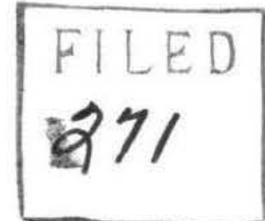
Municipal housing  
authorities and  
land clearance for  
redevelopment au-  
thorities are

authorized to agree to pay the "going federal rate of interest" on contracts entered into with the federal government for planning advances and contributions.

OPINION NO. 271

May 8, 1970

Mr. Gene Sally, Director  
Department of Community Affairs  
Jefferson State Office Building  
Jefferson City, Missouri 65101



Dear Mr. Sally:

This is in response to your request for an opinion concerning the power of housing authorities and land clearance for redevelopment authorities to agree to pay the "going federal rate of interest" on advancements of money by the federal government. Specifically, you asked:

"Do housing and land clearance for redevelopment authorities have the power to agree to pay the "going Federal rate of interest" on annual contribution contracts, planning advances, loans, grants or contributions?"

You state that these various forms of financial assistance from the federal government to the local authorities are to bear interest at a rate of six and three-eighths percent, which is the current "going federal rate of interest."

The powers and duties of a housing authority in Missouri are governed by the provisions of Sections 99.010 through 99.230, RSMo, as amended. Section 99.140, RSMo 1959 provides that an authority shall have power to issue bonds from time to time in its discretion for any of its corporate purposes. The term "bonds" is defined in Section 99.020, RSMo 1967 Supp. as:

"The following terms, wherever used or referred to in sections 99.010 to 99.230 shall have the following respective meanings unless a different meaning clearly appears from the context:

Mr. Gene Sally

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"(14) 'Bonds' shall mean any bonds, notes, interim certificates, debentures, or other obligations issued by the authority pursuant to this chapter;"

Section 99.150, RSMo 1959, provides that the bonds of an authority shall be authorized by resolution and shall bear interest at such rate or rates as such resolution, its trust indenture or mortgage may provide, not to exceed six percent per annum. In Opinion Letter No. 512, issued to you on December 19, 1969 (copy enclosed), it was our opinion that Section 99.150 had been amended by the provisions of House Bill No. 2 of the first extraordinary session of the Seventy-Fifth General Assembly to the extent that bonds issued by said authority may be sold at not less than ninety-five percent of par and may bear interest at a rate between six and eight percent if sold at public sale. However, in Opinion Letter No. 162 issued to you on February 9, 1970 (copy enclosed), it was our opinion that Section 99.150, as amended by House Bill No. 2, would not permit a municipal housing authority to sell bonds to the federal government at private sale at a rate in excess of six percent but less than eight percent. Although we were aware that Section 99.210, RSMo 1959 generally provides that a municipal authority may do any and all things necessary or desirable to secure the financial aid or cooperation of the federal government in the undertaking, construction, maintenance or operation of any housing project by such authority, it was our feeling that this section did not supersede or take precedence over Section 99.150, which specifically deals with the bonds of a municipal housing authority and the interest rates thereon.

Therefore, a housing authority can enter into contribution contracts, planning advances and other arrangements with the federal government pursuant to the statutory authority of Section 99.210, such contracts providing for payment of interest in excess of six percent per annum, only where the obligation to pay is not evidenced by an instrument which is a "bond" within the statutory definition. It is our opinion that the term "bond" as defined in Section 99.020(14) contemplates the sort of instrument that is generally thought of as a "bond", i.e., a bond or debenture or promissory note in which a promise is made to pay, at a specified date or dates, to the bearer, providing for fixed payments of principal and interest at stated times, and in a form which is transferable or assignable, whether negotiable or not. We note the language in Section 99.150(1), which provides:

"Bonds of an authority shall be authorized by its resolution and may be issued in one or more series and shall

Mr. Gene Sally

bear such date or dates, mature at such time or times, bear interest at such rate or rates, not exceeding six per cent per annum, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as such resolution, its trust indenture or mortgage may provide."

It seems clear that Section 99.150(1), as amended, only applies to those bonds which are "bonds" in the traditional sense. Since the various types of financial arrangements between the local authorities and the federal government mentioned in your letter do not meet this definition, it is our opinion that the local authorities can enter into such arrangements and agree to pay the "going federal rate of interest."

Much the same reasoning applies with respect to land clearance for redevelopment authorities, which are governed by Sections 99.300 through 99.660, RSMo, as amended. Section 99.490, RSMo 1959, as amended by House Bill No. 2 (see Opinion Letter No. 162), provides that a land clearance for redevelopment authority may issue bonds by resolution at an interest rate up to eight percent, if sold at public sale; with the further provision that the bonds may be sold at private sale at an interest rate not in excess of six percent.

Generally, Section 99.320, RSMo 1967 Supp. provides:

"As used in this law, the following terms mean:

\* \* \*

"(4) 'Bond", any bonds, including re-funding bonds, notes, interim certificates, debentures, or other obligations issued by an authority pursuant to this law;"

Section 99.420, RSMo 1959, applicable to Land Clearance for Redevelopment authorities, provides in part:

Mr. Gene Sally

"An authority shall constitute a public body corporate and politic, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this law, including the following powers in addition to others herein granted:

\* \* \*

"(8) To borrow money and to apply for and accept advances, loans, grants, contributions and any other form of financial assistance from the federal government, the state, county, municipality or other public body or from any sources public or private, for the purposes of this law, to give such security as may be required and to enter into and carry out contracts in connection therewith; an authority, notwithstanding the provisions of any other law, may include in any contract for financial assistance with the federal government for a land clearance or urban renewal project such conditions imposed pursuant to federal law as the authority may deem reasonable and appropriate and which are not inconsistent with the purposes of this law;"

Therefore, a land clearance for redevelopment authority would not be entitled to enter into contribution contracts, planning advances, or other arrangements with the federal government pursuant to Section 99.420(8), such contracts providing for payment of interest in excess of six percent per annum, if the obligation to pay is evidenced by an instrument which is a "bond" within the statutory definition. We believe that the term "bond", as defined in Section 99.320(4), contemplates the same type of instrument as that described previously with respect to municipal housing authorities. We note the language of Section 99.490(1) which provides:

"Bonds of an authority shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, not exceeding six per cent per

Mr. Gene Sally

annum, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as such resolution, its trust indenture or mortgage may provide."

The types of financial arrangements between the local land clearance for redevelopment authorities and the federal government mentioned in your letter do not meet the definition of a "bond", as set out in Section 99.320(4), and, therefore, it is our opinion that land clearance for redevelopment authorities can enter into arrangements of this type with the federal government and agree to pay interest at the going federal rate.

#### CONCLUSION

It is the opinion of this office that municipal housing authorities and land clearance for redevelopment authorities are authorized to agree to pay the "going federal rate of interest" on contracts entered into with the federal government for planning advances and contributions.

This opinion, which I hereby approve, was prepared by my Assistant, Richard Wieler.

Yours very truly,



JOHN C. DANFORTH  
Attorney General

Enclosures:

Opinion Letter No. 162, Sally, 2-9-70  
Opinion Letter No. 512, Sally, 12-19-69