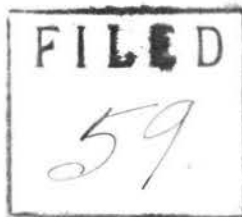


BUILDING AND LOAN ASSOCIATIONS:

Fees required to be paid  
Supervisor for examination  
of "Participating Reserve  
Fund".

5624 Laws 3/

June 9, 1933



Honorable Ira A. McBride  
Supervisor Building and Loan Associations  
Jefferson City, Missouri

Dear Mr. McBride:

This Department acknowledges receipt of  
your letter dated June 7, 1933, as follows:

"The Baltimore Avenue Building and  
Loan Association of Kansas City,  
Missouri, was formerly the Reserve  
Building and Loan Association.  
The Reserve Association was  
reorganized and its name changed to  
the Baltimore Avenue Building and  
Loan Association.

The reorganization plans provided  
for the creation and establishment  
of a "Participating Reserve Fund"  
in which was placed all real estate  
owned by the Association and other  
assets of doubtful value. The  
entire plan of reorganization and  
the creating of the "Participating  
Reserve Fund" was subject to the  
approval of the Supervisor of Building  
and Loan Associations.

Examiners for this Department have  
recently completed an examination of  
the affairs of the above mentioned  
Association. The officers of the

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Association refused to pay a fee for examining the assets of the "Participating Reserve Fund" which amounts to approximately \$600,000.00, claiming that this fund was not under the supervision of this Department, therefore, we were not entitled to our fee as provided for in the Statutes governing this Department.

We are submitting this matter to your office for an opinion and will appreciate same at your earliest convenience".

Section 5624, Missouri Laws 1931, page 161 provides, with reference to your inquiry, in substance as follows:

"It shall be the duty of the Supervisor in person or by one or more persons by him appointed \* \* \* to make a full and careful examination of the affairs of any and all Associations in the state as often as, in the discretion of the Supervisor, the condition of any Association may require\* \* \* \* In every such examination, inquiry should be made as to the nature and resources of the corporation generally, the mode of conducting and managing its affairs, the action of its directors, the investment of its funds, the security offered its members and those by whom its engagements are held, and whether the requirements of its charter and the law have been complied with in the administration of its affairs. \* \* \* \* The refusal of any such corporation to permit the examination of its affairs

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as required by Sections 5622 to 5628, inclusive, shall be sufficient cause for the institution of proceedings to wind up its affairs, as hereinafter provided. The expenses of each annual or special examination shall be paid by the Association examined in such amount as the Supervisor of Building and Loan Associations shall certify to be just and reasonable \* \* \* \*".

Then follows the minimum and maximum amounts that such Associations may be required to pay for an examination or examinations and providing that the aggregate sum collected from the Building and Loan Associations doing business in this state to be calculated upon a basis sufficient to cover the entire expenses of the Bureau of Building and Loan Supervision, incurred in the examination of such Associations, including their proportionate shares of the salaries of the Supervisor of Building and Loan Associations, officers, employes, deputies and examiners, and the preparation of the reports and all other expenses made necessary by such examinations.

You state in your letter that the reorganization plans provided for the creation and establishment of a "Participating Reserve Fund". This provision was doubtless made to anticipate the provisions of House Bill Number 156 if the same was signed by the Governor and if and when the same goes into effect. When House Bill Number 156 goes into effect and when the by-laws and charter of any Building and Loan Association may be amended to conform thereto, then a different question may arise. You do not state upon what ground the officers of the Baltimore Avenue Building and Loan Association refused to pay the examination fees and we can only surmise that it was upon the ground that the "Participating Reserve Fund" was a thing apart from the Association. If our assumption is correct, then the contention would have no basis as a "Participating Reserve Fund" is unknown to Chapter 35 of the Revised Statutes of Missouri, 1929, as the same now stands.

Section 5624, above quoted, commands the Supervisor to make a full and careful examination of the affairs of any Association, which means of all its affairs, which means all of its business of whatever kind or nature, the examiner has power to administer oaths; to take testimony and compel the attendance of witnesses and the production of books and papers in order that

Honorable Ira A. McBride

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the examination may be facilitated or may be made complete. The examiner is required to inquire into the nature of the Association and its resources, which means, of course its available assets with which it may discharge its obligations to its members; the examiner is required to investigate as to how the funds of the Association are invested which gives the examiner the right to investigate as to all of the funds which go to make up any kind or character of the assets of the Association; the examiner is required to examine into the security offered members of the Association which upon its face would require an examination into its resources and assets, as well as the manner and mode in which its business was being transacted and conducted.

We are of the opinion that the Baltimore Avenue Building and Loan Association is entitled to and by law required to pay the expenses of the examination made by your Department in such amount as you shall certify to be just and reasonable and within the limitations provided in Section 5624.

We are returning you herewith inclosures forwarded with your letter of June 7, 1933.

Very truly yours,

GILBERT LAMB  
Assistant Attorney General,

APPROVED:

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ROY McKITTRICK  
Attorney General.

GL:LC

Inclosures