

Home Owners' Loan Corporation: County Court cannot make a compromise settlement of loans made out of county school fund, nor accept what can be loaned by H. O. L. C. thereafter.

8.23

August 20, 1934.



Mr. G. P. Allen,
District Appraiser,
Home Owners' Loan Corporation,
Moberly, Missouri.

Dear Sir:-

We have your letter of June 26, 1934, in which an opinion is requested as follows:

"Having bothered your office on different occasions regarding a matter of County School Fund mortgages I am again asking your opinion as follows:

"Some counties have made loans of these sacred school funds and they have been running over a period of years. No doubt they were good loans at the time they were made but I find that a good many of them are in a bad state of repair and worth considerable less than the school fund note. The home owners are unable to pay their interest to the school fund, their delinquent taxes, and let alone the necessary repairs to preserve the property. Unless something is done these loans will become of very little value, and finally the property will be foreclosed and bring but little. Experience is already teaching some of the courts this. To dispossess the home owners makes them public charity persons, and the home will deteriorate and go down to where it will do no one any good.

"In reading section 9243 of the second volume of the Revised Statutes of 1929, we find that the duty of the courts in loaning this money they shall not loan for over 8% nor less than 4%. On unencumbered real estate worth at all times at least double the sum loaned, as explained above, many of them are not worth half of the sum loaned let alone being double what the loan is.

"One court has advanced the idea that they cannot accept the bonds of this corporation for the reason they do not bear 4% interest. This argument is met that they could accept them, immediately sell them and reloan the money on security at a rate suitable to the statutes.

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"The question now is, can they make a compromise settlement on these loans and accept what can be loaned by the Corporation where it is necessary that we repair and put the property in a good state of condition, or would it be best that they sell this property? Then they know what the value is and they could let the home owner redeem it, as we can do under the rules and regulations of this Corporation. My purpose in asking this question is that the school funds may be saved what they can be, and the home owners not be dispossessed of their homes, that the Corporation will purchase material of material men, furnish labor for laboring men, put the homes in a state of condition whereby they will be fit to live in, and in all increase the value of all property in the towns and locations where they are found. Would it be better policy for the courts to sit idly by, let the property go to nothing, turn the home owners out without shelter and make them subject of public charity? This is exactly what is going to happen if something is not done. I have viewed a good many such cases and believe I know whereof I speak.

"Your opinion will be greatly appreciated and help to fit in and set some of the courts right as to what should be done in a business-like way as any prudent business man would do though they don't stick on the letter of section 9243, for they cannot be saved and do so. It is impossible after the condition these properties have gotten into. We are ready and willing to help save these homes, and can do so with the co-operation of the authorities and the County Courts. Thanking you in advance, I remain

Very truly yours,

(Signed) G. P. Allen
District Appraiser,
Home Owners' Loan Corporation."

On October 25, 1933, we rendered an opinion, a copy of same being enclosed herewith, which opinion in effect answers the question which you have asked in your letter.

We are heartily in accord with the sentiments expressed in your letter, and sincerely regret our inability to alter our previous opinion to the extent of affording some relief in a very

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difficult situation. It is the function of this office, however, to merely construe the law according to the letter and expressed intent thereof, hence, we are bound within rather narrow legal limits in the rendering of opinions, regardless of the end to be attained or the obvious advisability of a certain course of action. It is the function of the courts of this state to decide matters such as the one at issue.

The law as to the loaning of school funds and the various procedures connected therewith is plainly set out in the statutes, certain pertinent sections of which are quoted in the opinion attached hereto. There being no provision which could be construed to allow a compromise such as the one you suggest, we are constrained to hold that such cannot be effected under our laws as they now stand.

We sincerely trust you can appreciate the position which we are forced to assume.

Very truly yours,

CHARLES M. HOWELL, Jr.
Assistant Attorney-General.

CMHjr-MB
Enc.

APPROVED:

Attorney-General.