

OPINIONS OF THE ATTORNEY GENERAL

VOLUME NO. 39

OPINION NO. 4

AUTHORITY - Powers and responsibility;  
LOCAL GOVERNMENT - Municipal housing;  
MUNICIPAL HOUSING AUTHORITY - Powers and  
responsibilities;  
STATUTORY CONSTRUCTION - Plain meaning of unambiguous  
terms prevails;  
MONTANA CODE ANNOTATED - Sections 7-15-4401, 7-15-4413,  
7-15-4451, 7-15-4451(2)(d), 7-15-4453, Title 7, chapter  
15, part 45.

- HELD: 1. Municipal housing authorities may participate  
in the administration or management of rental  
contracts pursuant to the federal section 8  
existing rent supplement program.
2. The administration of such rent supplement  
programs is restricted to the statutory  
boundary of municipal housing authorities.

29 January 1981

Jim Nugent, Esq.  
City Attorney  
201 West Spruce  
Missoula, Montana 59801

Dear Mr. Nugent:

You have requested my opinion on the following  
questions:

1. May a municipal housing authority in the  
State of Montana participate in the  
administration or management of rental  
contracts pursuant to the federal section  
8 existing rent supplement program?
2. If so, may the municipal housing  
authority administer the rent supplement  
program outside the statutory 10-mile  
boundary?

Municipal housing authorities are established by Title  
7, chapter 15, parts 44 and 45, of the Montana Code  
Annotated (MCA). Section 7-15-4401, MCA, sets forth the  
policy of municipal housing authorities and says in  
part:

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(6) the clearance, replanning, and reconstruction of the areas in which unsanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which public money may be spent and private property acquired....

The federal section 8 existing rent supplement program is a program of the U.S. Department of Housing and Urban Development (HUD). It is not a public housing program but a rent supplement program involving dwelling units not owned or managed by any government entity. Such programs are not specifically dealt with by state law. The program does provide safe, sanitary dwellings for persons of low income and, therefore, falls within the range of duties allocated to municipal housing authorities. Section 4-15-4451(2)(d), MCA, gives a housing authority the power to "make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority...." Sections 7-15-4401 and 7-15-4451, MCA, together indicate that a municipal housing authority may participate in the federal section 8 rent supplement program.

Regarding your second question, section 7-15-4413, MCA, provides in part: "The boundaries of such authority shall include said city and the area within 10 miles from the territorial boundaries of said city...." The Missoula Municipal Housing Authority wants to contract to administer the federal section 8 program in Ravalli and Superior counties. The intention is not to develop or plan any new housing areas but simply provide a local agency through which to distribute federal funds needed to achieve adequate housing needs. The federal government's requirements indicate that all that is necessary is that a "public housing authority" administer the funds. HUD is willing to allow Missoula's housing authority to manage the funds despite the lack of any express provision in state law. While there is authority permitting a municipal housing authority to use section 8 funds within the territorial boundaries set by statute, no such authority exists to bypass the 10 mile limit. Section 7-15-4453, MCA, states:

The authority and its commissioners shall be

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under a statutory duty to comply or to cause compliance strictly with all provisions of this part [44] and part 45....

It is beyond the scope of power of a municipal housing authority to distribute section 8 funds outside the 10 mile boundary. Should these provisions prove inequitable the proper forum in which to seek clarification is the Legislature.

THEREFORE, IT IS MY OPINION:

1. Municipal housing authorities may participate in the administration or management of rental contracts pursuant to the federal section 8 existing rent supplement program.
2. The administration of such rent supplement programs is restricted to the statutory boundary of municipal housing authorities.

Very truly yours,

MIKE GREELY  
Attorney General