

OPINION
67-145

March 2, 1967 (OPINION)

Mr. Fred P. Brandt, Director

Economic Development Commission

RE: Municipal Industrial Development - Facilities - Purchase

This is in reply to your request for an opinion of this office with regard to the Municipal Industrial Development Act, as amended to date, specifically with regard to the facilities that may be acquired thereunder.

You call our attention to a sentence from our opinion dated November 29, 1965, to Mr. Lloyd Omdahl, Tax Commissioner, stating:

"Thus the fact that a building was originally constructed by private funds would have no bearing on whether it could be acquired by municipality under the Act, or could become a 'project' within the meaning of the terms of the Act."

You state that the question has now arisen of whether a time limit exists governing private ownership prior to acquisition by a municipality. You suggest a hypothetical instance in which a private firm has conducted business operations in a location for two years prior to making a decision to expand. At such time, the corporation elects to use the municipal industrial development bond as a vehicle for financing its expansion. Having interim financing available the expansion is constructed. For this example your question is stated as:

"Can the municipality now acquire the new expansion and is there a time limit following the expansion by which the municipality must acquire the property"

In the example given we see no legal objection to the municipality now acquiring the new expansion and know of no time limit, as such, following such expansion by which the municipality must acquire the property.

Obviously, of course, the statute must be considered as a whole, and the basic purpose kept in mind. Without going further into its purpose we note its title: "Municipal Industrial Development Act of 1955." Clearly, the Act could not be utilized to take an obsolescent, completely depreciated building off the owners hands. In the example you give however it would appear to us that the purpose is industrial development.

HELGI JOHANNESON

Attorney General