

GCM

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

10,973

FILE: B-152603

DATE: August 7, 1979

MATTER OF: Applicability of Additional House Office Building Act of 1955, to District of Columbia Redevelopment Land Agency Property

[Transfer of]

DIGEST: Property owned by the District of Columbia Redevelopment Land Agency (RLA), which was an agency of the United States prior to adoption of the District Home Rule Act, was "property owned by the United States" for purposes of the Additional House Office Building Act of 1955, 69 Stat. 41, requiring that such property in certain areas be conveyed to Architect of the Capitol on request without reimbursement. Home Rule Act made RLA an instrumentality of the District. Same property can no longer be considered as "owned by the United States." 43 Comp. Gen. 485 (1963) distinguished.

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This decision is in response to an inquiry from the Architect of the Capitol, asking whether, under the rationale of our decision at 43 Comp. Gen. 485 (1963), the District of Columbia Redevelopment Land Agency (RLA) can be compelled to transfer certain property to which it holds title to the Architect without reimbursement or transfer of funds, pursuant to section 1202(a) of the Additional House Office Building Act of 1955 (1955 Act) approved April 22, 1955, 69 Stat. 41, 40 U.S.C. § 175 note. For the reasons stated below, the answer is no.

Section 1202(a) of the 1955 Act provides for acquisition of various properties by the Architect. With regard to property located where the parcel here in question is located, the Act states:

"* * * Any real property owned by the United States and located south of Independence Avenue in the vicinity of the Capitol Grounds shall upon request of the Architect of the Capitol, made with the approval of the House Office Building Commission, be transferred to the jurisdiction and control of the Architect of the Capitol without reimbursement or transfer of funds. * * *"

In our decision at 43 Comp. Gen. 485 (1963), we held that property located south of Independence Avenue in the vicinity of the Capitol grounds, the title of which was in the RLA, could be transferred without cost to the Architect under this provision. We said that:

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Real property
land transfer
no. 485 (1963)
management
office buildings

"* * * The Agency [RLA] 'in spite of its name and limited area of operation' has judicially been held to be a Federal Agency as distinguished from a District of Columbia agency for purposes of the Federal Tort Claims Act, 28 U.S.C. 2671, et seq., Goddard v. District of Columbia Redevelopment Land Agency, 287 F.2d 343 (1961). We see no reason why a similar view of the Agency's status should not be adopted in the present context. Therefore, it is our view that Square 639 falls within the term 'real property owned by the United States' as used in the Additional House Office Building Act of 1955.

"It is noted that the General Counsel of the Agency in a memorandum dated December 7, 1956, to the then Executive Director of the Agency stated, in effect, that in his opinion even though technically the Agency must acquire title to property in its own name, nevertheless such property is considered to be owned by the United States within the meaning of the Additional House Office Building Act of 1955."
43 Comp. Gen. 486-487.

The property here in question (described as square 582, Lot 49 designated as Parcel 36; and square 640, Lot 70, designated Parcel 43) is located south of Independence Avenue in the vicinity of the Capitol, and was acquired about the same time as the property which was discussed in our decision above. Thus, unless the status of this property has changed from "property owned by the United States," it too would be subject to the provisions of section 1202(a) of the 1955 Act.

RLA was established by section 4 of the District of Columbia Redevelopment Act of 1945 (Redevelopment Act) (approved August 2, 1946, 60 Stat. 793, as a body corporate of perpetual duration governed by a five-member Board of Directors. Two members were appointed by the President and three members were appointed by the District Commissioners subject to confirmation by the Senate. (Reorganization Plan No. 4 of 1968 transferred the President's power of appointment of Board members to the Commissioner of the District of Columbia.)

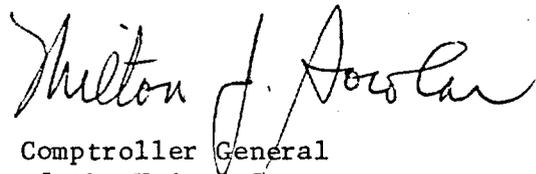
Since our earlier decision, section 4 of the Redevelopment Act has been amended by sections 201(a)-(c) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973 (Home Rule Act) (Pub. L. No. 93-198, December 24, 1973, 87 Stat. 778). The Home Rule Act establishes the RLA--

"* * * as an instrumentality of the District of Columbia government, * * * composed of five members appointed by the Mayor of the District of Columbia * * * with the advice and consent of the Council of the District of Columbia * * *."
D.C. Code 5-703(a) (Supp. IV, 1977).

Moreover, although the RLA remains a "body corporate of perpetual duration" (D.C. Code 5-703(b) (Supp. IV, 1977)), the District of Columbia may dissolve it, eliminate the board of directors, or take any other action with respect to its powers and duties which the District considers necessary and appropriate. Id.

By virtue of these provisions, RLA having now become an instrumentality of the District, property rights held by RLA prior to the Home Rule Act in its own name would now be considered to be vested in the District of Columbia. Although the Act does not expressly so provide, that is its effect.

Therefore, in our opinion Parcels 36 and 43 may no longer be considered property "owned by the United States" for the purpose of the 1955 Act, and thus the rationale of 43 Comp. Gen. 485 (1963) does not apply.



For The Comptroller General
of the United States