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FILE NO. S-576

COUNTIES:

Expenditure of Revenue Sharing Funds

Honorable F. Lawrence Lenz
State's Attorney
County of Stephenson
Courthouse Building
Freeport, Illinois 61032

Dear Mr. Lenz:

I have your letter of March 22, 1973, wherein you
state:

"The County Board of Stephenson County has been approached by the Community Action Agency for Stephenson County and the Stephenson Council for the Aged with requests for funds and the suggestion that such funds be provided from the Revenue Sharing Trust Fund established by Stephenson County.

The Community Action Agency was established in 1965 for the primary purpose of administering OEO programs in this area. They have submitted their request to adjacent counties and to the

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City of Freeport as well as to the County Board of Stephenson County. The Community Action Agency administers such programs as neighborhood youth employment, hot breakfasts programs at schools and Head Start - a pre-school program.

Board members have requested that I obtain your opinion concerning the powers of the County Board to provide for funds from the Revenue Sharing Trust Account particularly since the Community Action Program and any program provided by the Council for the Aged are not within the prescribed statutory powers of the county."

Under the State and Local Fiscal Assistance Act of 1972, (31 U.S.C.A., sec. 1221, et seq.) units of local government are authorized to use revenue sharing funds only for priority expenditures. Priority expenditures are defined in section 103 of said Act as follows:

- " * * * For purposes of this chapter, the term 'priority expenditures' means only -
- (1) ordinary and necessary maintenance and operating expenses for -
 - (A) public safety (including law enforcement, fire protection, and building code enforcement),
 - (B) environmental protection (including sewage disposal, sanitation, and pollution abatement),
 - (C) public transportation (including transit systems and streets and roads),
 - (D) health,
 - (E) recreation,
 - (F) libraries,
 - (G) social services for the poor or aged, and
 - (H) financial administration; and

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(2) ordinary and necessary capital expenditures authorized by law."

31 U.S.C.A., sec. 1222.

Section 123 of said Act (31 U.S.C.A., sec. 1243) further limits the expenditures of revenue sharing funds in the following manner:

"In order to qualify for any payment under subchapter I of this chapter for any entitlement period beginning on or after January 1, 1973, a State government or unit of local government must establish * * * to the satisfaction of the Secretary that - * * *

(4) it will provide for the expenditure of amounts received under subchapter I of this chapter only in accordance with the laws and procedures applicable to the expenditure of its own revenues; * * * "

Thus, the State and Local Fiscal Assistance Act of 1972, supra, does not authorize units of local government to expend revenue sharing funds for purposes which are not already authorized by State law.

You state in your letter that the programs of the Community Action Agency for Stephenson County and the Stephenson Council for the Aged are not within the prescribed statutory powers of a county. County boards can only exercise such powers as are expressly given by the law, or such as arise by necessary implication from the powers granted.

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(Ashton v. Cook County, 384 Ill. 287.) A county has no power to appropriate, give away or dispose of county funds or property for purposes not authorized by law. Lefevre v. County of Lee, 353 Ill. 30; 20 C.J.S. Counties, sec. 236; 14 I.L.P. Counties, sec. 62.

If support for the programs of the aforementioned agencies are not within the statutory powers of a county board, the county board correspondingly is not authorized to expend its own revenue funds in the furtherance of said programs and is not authorized to use funds derived from the State and Local Fiscal Assistance Act of 1972, supra, in furtherance of these programs.

This opinion is not to be construed as authorizing any outright grants, as distinguished from disbursements pursuant to valid, proper, equitable and arms-length contracts, of Revenue Sharing Funds, even when the recipients of such grants are engaged in activities that are limited to a

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county's statutory powers and responsibilities.

Very truly yours,

A T T O R N E Y G E N E R A L