

OFFICE OF THE CITY ATTORNEY

OPINION NO. 91-03

TO: Jacque Ardebili, Budget Officer

FROM: Stephen M. Kemp, City Attorney

DATE: June 21, 1991

SUBJECT: Opinion on Applicability of Primary Property Tax Levy  
Limitation and Property Tax Oversight Commission to Tax  
Levies for Bonded Indebtedness

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QUESTION:

Is there a limit on the amount of taxes which may be levied for bonded indebtedness subject to the review and control of the Property Tax Oversight Commission.

OPINION:

Recently, a former finance director for the City of Peoria indicated that the tax levies for bonded indebtedness are subject to limitations in the same manner as primary property taxes. This determination is wrong. As noted in the League of Arizona Cities and Towns' Municipal Budget and Finance Manual, there is no limit on the amount of tax levies for bonded indebtedness. The League of Cities and Towns' Manual states:

Not only is the dollar amount of the secondary property tax levy "unlimited", the actual full cash value of property will be used in determining the tax rate (A.R.S. Section 42-201.02). This is unlike the primary tax system which uses a controlled assessment system to determine the tax rate for primary property tax purposes.

The bottom line on the secondary property tax system is that a city or town can levy the amount necessary to pay off its debt service.

The former Finance Director suggests that the Property Tax Oversight Commission could confiscate or order a reduction of the tax levy for bonded indebtedness if the amount is too large.

This suggestion is totally in error. The duties of the Property Tax Oversight Commission is set forth in A.R.S. Section 42-306. Subsection H provides:

If the Commission determines that a political subdivision has violated the provisions of A.R.S. 42-301, the Commission shall notify the political subdivision and the County Board of Supervisors, in writing of the nature of the violation and the necessary adjustment to the primary property tax levy. . .

Section 42-301 pertains to the calculation of the primary property tax levy. There is no statutory authority whatsoever for the Property Tax Oversight Commission to regulate secondary tax levies.

Instead, the duty of the City Council in the area of secondary tax levies for bonded indebtedness requires that sufficient taxes be levied to repay all principal and interest, taking into account delinquent taxes, reductions in valuation, and cash flow problems. To meet this duty, the Arizona Constitution and statutes allow the Council to set the secondary property tax levy at whatever amount it deems necessary to meet these legal obligations. If you should have any further questions, please do not hesitate to contact me.

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cc: Dennis L. Frederickson, City Manager  
Meredith R. Flinn, Assistant City Manager