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STATE CAPITOL
PHOENIX, ARIZONA

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DEPARTMENT OF LAW LETTER OPINION NO. 67-30-L (R-93)

REQUESTED BY: GEORGE C. LEIPHART, Director, Planning Division
for Theodore G. Hawkins, Commissioner of Finance

QUESTION: Under A.R.S. § 35-131.02(1) and § 35-131.04(3)
is the Planning Division of the Department of
Finance required to inspect the buildings of
the State Highway Department?

ANSWER: Yes.

A.R.S. § 35-131.01 creates within the Department of Finance
a state planning division. A.R.S. § 35-131.02 provides powers and
duties for the planning division. Those which concern this opinion
are as follows:

- "1. Make an annual inspection of all state
buildings and report to the legislature on the
condition, maintenance and utilization of such
buildings.
2. Review all proposed projects and improve-
ments of state agencies and submit a report
thereon to the legislature.
3. Approve plans and specifications and changes
thereof for all projects and improvements for
which funds are appropriated by the legislature.
4. Make regular inspections of all projects
and improvements during the course of construc-
tion to insure compliance with the plans and
specifications approved by the commissioner.
5. Maintain an updated plan at least five years
in advance of all improvements and projects which
will be required by state agencies."

A.R.S. § 35-131.04 provides for specific exemptions from provisions of the article. We are only concerned with number (3) which reads as follows:

"3. Programs, projects or improvements of the state highway commission relating to the construction, reconstruction, improvement or maintenance of state highways or bridges."

A.R.S. § 35-131 defines "improvement" as "the alterations, enlargement, rehabilitation or repair of existing state buildings." "Program" is defined as "planning for future needs and buildings." "Project" is defined as "the acquisition by purchase or lease of real property or the construction of new buildings, or both." It should be noted that these definitions import future events.

It is well settled that when construing apparent ambiguities in statutes the courts will always attempt to determine the legislative intent at the time of enactment. Phoenix Title & Trust Co. v. B. W. Burns, 96 Ariz. 332, 395 P.2d 532; Federal Mut. Liability Ins. Co. v. Industrial Commission of Arizona, 31 Ariz. 224, 252 P. 512.

It is the general rule of statutory construction that specific provisions of a statute will be held controlling over those of a general nature. State v. Lumbermen's Indemnity Exchange, 24 Ariz. 306, 209 P. 294 (1922); Phoenix Title & Trust Co. v. B. W. Burns, supra. In this instance A.R.S. § 35-131.02 has expressly provided that all buildings must be inspected by the designated agency, however, when the legislature sought to provide for certain exemptions they were specific in that buildings were not included within the exemptions.

It is true that state highway department buildings relate to the construction, reconstruction or maintenance of state highways and bridges, however, A.R.S. § 35-131.04(3) specifically exempts only programs, projects or improvements of the state highway commission relating to the construction, reconstruction, improvement or maintenance of state highways or bridges, not buildings.

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Therefore, it is the opinion of this office that the legislature under A.R.S. § 35-131.04(3) specifically intended to exempt only "programs, projects or improvements of the State Highway Commission" from the provisions of A.R.S. § 35-131.02 and that the Planning Division of the Department of Finance is required to inspect the buildings of the State Highway Department.

Respectfully submitted,

Darrell F. Smith
DARRELL F. SMITH
The Attorney General

DFS:cah