



OFFICE OF THE  
**Attorney General**  
STATE CAPITOL  
Phoenix, Arizona 85007

R75-465  
BRUCE E. BABBITT  
ATTORNEY GENERAL

75-251

August 6, 1975

**LAW LIBRARY**  
**ARIZONA ATTORNEY GENERAL**

Mr. W. Michael Kelley  
Deputy Yavapai County Attorney  
Courthouse  
Prescott, Arizona 86301

Dear Mr. Kelley:

We have received your letter opinion of July 22, 1975, addressed to Dr. Joe Russo, President of Yavapai College, relating to the immunity of the particular project there involved from the Prescott municipal building code, which opinion was revised by your letter dated August 1, 1975.

We concur in your revised opinion of August 1, 1975.

Sincerely,

BRUCE E. BABBITT  
Attorney General

BEB:ASK:lc





OFFICE OF

# County Attorney

YAVAPAI COUNTY COURTHOUSE

PRESCOTT, ARIZONA 86301

445-7450 EXT. 35

July 22, 1975

G. EUGENE NEIL  
COUNTY ATTORNEY

ROBERT W. KUEBLER, JR.  
DEPUTY

RICHARD A. STEWART  
DEPUTY

W. MICHAEL KELLEY  
DEPUTY

CHARLES E. PREIMSBERG  
DEPUTY

Dr. Joe Russo, President  
Yavapai College  
1100 East Sheldon  
Prescott, Arizona 86301

Dear Dr. Russo:

This is in response to your question "Is Yavapai College immune from the City of Prescott building code when it uses a privately owned building for normal college business?"

*What is  
length  
of use?*

*State-owned*

There appears to be no case law or statute governing this particular question. However, in the case of Board of Regents v. City of Tempe, 88 Ariz. 299, 356 P.2d 399 (1960), the Arizona Supreme Court ruled that the City of Tempe's building codes and regulations would not be applied to a state agency allocated by law the responsibility of performing a government function. This would apparently apply in the instant case where Yavapai College, a vehicle of the State, is using this private building in the performance of its governmental function, ie, the offering of state supported education to a community. A similar result was reached by the Arizona Attorney General in Opinion No. 73-12-C, wherein the Attorney General ruled that a municipal building code has no effect on an educational institution supported by the State.

The fact that Yavapai College is procuring the use of a private building within the city limits should have no effect on the substance of these above rulings. It would affect, however, the use of the building once it is turned back to its original, private owner. But while Yavapai College is making use of the building for a state supported governmental operation, it is not subject to the general police powers of a municipal corporation, ie, the City of Prescott Building Code.

A copy of this opinion is being sent to the Arizona Attorney General for concurrence. I hope this has answered your question; if further questions arise in this matter, please feel free to contact me.

Yours truly,

W. MICHAEL KELLEY

W. Michael Kelley  
Deputy County Attorney

*ATTN: ...*



# County Attorney

YAVAPAI COUNTY COURTHOUSE

PRESCOTT, ARIZONA 86301

445-7450 EXT. 35

August 1, 1975

G. EUGENE NEIL  
COUNTY ATTORNEY

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W. MICHAEL KELLEY  
DEPUTY

CHARLES E. PREIMSBERG  
DEPUTY

Dr. Joe Russo, President  
Yavapai College  
1100 East Sheldon  
Prescott, Arizona 86301

Dear Joe:

After consultation with the Attorney General's Office in Phoenix, I have reached the conclusion that the City of Prescott is correct in exercising jurisdiction over Yavapai College's use of a privately owned building for college purposes. This opinion is based on the existence of two things; first, the fact that the property is being used by Yavapai College on a very short term basis; second, the fact that the building is in fact private and, in the future, will no doubt revert to private use.

Under such circumstances, it is reasonable that the City should exercise continuous jurisdiction over the construction and use of the building.

Yours truly,

W. MICHAEL KELLEY

W. Michael Kelley  
Deputy County Attorney

WMK:jlh