

Wright



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

BRUCE E. BABBITT  
ATTORNEY GENERAL

May 27, 1977

LAW LIBRARY  
ARIZONA ATTORNEY GENERAL

Mr. Bob Kennedy  
Division Two  
State Board of Tax Appeals  
1645 West Jefferson  
Phoenix, Arizona 85007

Re: 77-114 (R77-34)

Dear Mr. Kennedy:

In your letter of January 28, 1977, you asked for our advice concerning the legality of the following resolutions adopted by a majority of the Board members of the State Board of Tax Appeals in a meeting held on January 5, 1977:

1. Other than presiding at meetings of the Board, the Chairman's authority shall be the same as other Board members. The same shall be true of the Chairmen of Divisions I and II.

Each division shall be responsible for preparing and justifying its own budget, to be consolidated by the Clerk of the Board for presentation to the Department of Administration, Division of Finance and to the Joint Legislative Budget Committee.

The members of each division shall be solely responsible for the administration of their division and the authority vested in its employees and the approval of its expenditures. The secretary of the Board shall keep a consolidated account of expenditures.

2. All members of the State Board of Tax Appeals and the Clerk of the Board (Mr. Hoskins), and Mr. Medina may be authorized to sign vouchers for the State Board of Tax Appeals.

Mr. Bob Kennedy  
May 27, 1977  
Page Two

A.R.S. § 42-142 is the statutory provision that deals with the management and procedures of the State Board of Tax Appeals and its respective divisions. Section A gives the Board the power to appoint a clerk for the purpose of carrying out Board duties. Section B states in pertinent part that "A majority of the board shall constitute a quorum for making orders and decisions or transacting other official business. . . ." (Emphasis added.) Further, Section C provides "Each division of the board shall have the same powers and duties with respect to its own management and procedures as are provided for the board in subsections A and B. . . ." (Emphasis added.)

A.R.S. § 42-142.B. states that a majority of the Board is to transact the official business of the Board. From this language we infer that the Legislature intended that the Board and its respective divisions be governed by the majority of the members--not by the Chairman. Further, neither the statute nor the regulations adopted by the State Board of Tax Appeals grant any special authority to either the Chairman of the Board or the Chairmen of each Division other than the power to preside at meetings. Surely, the Legislature would have specifically conferred administrative powers on the Chairman of the Board when enacting the statutes if that was its intent.

This interpretation of the statutes and regulations is consistent with an earlier opinion issued by this Office on a similar question involving different statutes. In Atty. Gen.Op.No. 68-7-L, the Executive Director of the Arizona Civil Rights Commission asked: "May a motion which has been approved by a majority of the members of the Commission, but which the Chairman disapproves of and hence refuses to sign, be considered a fully valid, official act of the Commission if signed by the majority of the Commission, but not signed by the Chairman?"

Noting that the applicable statute gave the majority of the Commission the authority to act for the Commission, the opinion stated that the validity of the act of the majority of the members is not affected by the absence of approval from the Chairman.

Mr. Bob Kennedy  
May 27, 1977  
Page Three

In light of the clear language of A.R.S. § 42-142.B enabling a majority of the Board to transact official business and the absence of a special grant of authority to the Chairman upon creation of the State Board of Tax Appeals, the resolutions adopted by the majority of the Board members are valid in their entirety.

Very truly yours,

BRUCE E. BABBITT  
Attorney General

*Mary J. Chandler*  
MARY J. CHANDLER  
Assistant Attorney General

MZC:jrs