



Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Robert R. Corbin

March 20, 1979

Stephen D. Neely, Esq.
Pima County Attorney
900 Pima Courts Building
111 West Congress Street
Tucson, Arizona 85701

**LAW LIBRARY
ARIZONA ATTORNEY GENERAL**

Re: I79-080 (R79-009)

Dear Mr. Neely:

In your letter of January 10, 1979, you asked for our opinion whether the Pima County Recorder can charge the Pima County Assessor an amount above cost for copies of records needed by the assessor in the performance of his duties as assessor and ex-officio deputy director of the State Department of Revenue.

We conclude that the County Recorder should charge the County Assessor at the higher amount; namely \$.50 per page.

The fees to be collected generally by the County Recorder for preparing and certifying copies of a record in the recorder's office are set forth in A.R.S. § 11-475:

- A. The county recorder shall receive the following fees:
- ...
4. Preparing and certifying copies of a record in his office, fifty cents for each page or partial page or, if copies are furnished by the applicant for certification, twenty five cents,
- ...
- D. Notwithstanding the provisions of subsection A, paragraph 4 of this section, the recorder shall prepare and furnish copies at no more than actual cost of labor and materials to the recorder's office when requested by any state agency for official purposes.

(emphasis added.)

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The first issue, therefore, is whether the County Assessor is a "state agency" for purposes of the § 11-475(D) exemption. There is no case law directly on point, and reference to other statutory provisions and cases is thus necessary.

The relationship of the county assessor to the Department of Revenue has been discussed twice by the Arizona courts. In Hillock v. Bade, 22 Ariz.App. 46, 523 P.2d 97 (1974) the Court of Appeals described Arizona's statutory scheme for valuing, assessing and taxing of real and personal property. The Department of Revenue is responsible for the statewide annual valuation of many types of major property, e.g., mines, utilities, and transportation; see generally, A.R.S. §§ 42-221; 42-124.01; 42-704; and 42-762, while the county assessor is primarily concerned with the valuation of residential, agricultural, and general commercial properties within his county. A.R.S. § 42-221. To insure that properties throughout the state are uniformly valued, however, county assessors are subject to supervision and regulation by the State Department of Revenue in their valuation and assessment functions. See A.R.S. § 42-123. Thus, the county assessor's office is independent of the Department of Revenue except to the degree of control necessary for the interests of uniformity of valuation and assessment. Because this control is only general supervisory and limited in scope, it is not sufficient to enable the county assessor's office to be classified as a "state agency." A.R.S. §§ 42-123; 42-123.01; 42-126; 42-405.

Further support for this position is Arizona Dept. of Revenue v. Maricopa County, _____ Ariz. _____, 587 P.2d 252 (1978), where the Supreme Court again defined the relationship of the Department of Revenue and the county assessor's office.

The Arizona Department of Revenue is an agency of the State of Arizona, charged by A.R.S. § 42-111.03 with providing a coordinated and uniform system of tax administration for the State. It has general supervision over the counties of the State in the enforcement of the ad valorem property tax laws of the State of Arizona, A.R.S. § 42-123.01. (emphasis added.)

We are further supported in our conclusion about the relationship between the county assessor and the Department of Revenue by the fact that in Arizona Dept. of Revenue v. Maricopa County, supra, the county assessor, represented by the county attorney was an adverse party to the Department of Revenue, represented by the Attorney General. Since the

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Attorney General is responsible for representing state agencies under A.R.S. § 41-191, and the county attorneys are responsible for rendering legal assistance to county officers under A.R.S. § 11-532(7), the status of the two parties becomes more clear.

Since the Pima County Assessor is not a State agency official, he does not qualify for the cost exemption of A.R.S. § 11-475(D). Because an employee of the Department of Revenue is stationed within the County Assessor's Office, however, that employee may obtain the copies of the records from the County Recorder at the reduced rate.

Sincerely,



BOB CORBIN
Attorney General

BC/mm