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INTERAGENCY
Mr. Richard D. Searles, Chairman
Board of Tax Appeals
Division I
1645 West Jefferson
Phoenix, AZ 85007

June 24, 1980
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ARIZONA ATTORNEY GENERAL

Re: I80-109 (R80-128)

Dear Mr. Searles:

In your letter of June 9, 1980, you asked whether a decision of the Board of Tax Appeals, Division I (Board) for the tax years 1980 through 1982, which upwardly adjusts the full cash value of property will affect its "limited property value", possibly contravening constitutional and statutory requirements pertaining to limited property valuations.

The newly-enacted Article 9, § 18 of the Arizona Constitution and Chapter 8, Laws of 1980 (Second Special Session, 1980) provide for two kinds of property valuation: (1) "full cash value" on the basis of which "secondary property taxes" are assessed and collected; and (2) "limited property value" on the basis of which "primary property taxes" are assessed and collected. A.R.S. § 42-201, Ch. 8, § 48, Laws of 1980 (Second Special Session, 1980). The limited property value is determined by means of a formula prescribed by the afore-mentioned section of the Constitution and set forth in A.R.S. § 42-201.02, Ch. 8, § 50, Laws of 1980 (Second Special Session, 1980).^{1/}

1. We note that A.R.S. § 42-201.A provides that, for the tax years 1980, 1981 and 1982, the limited property value of a parcel may be increased "up to a level of ten per cent more than the limited property value of the property in the prior tax year." (Emphasis added.) Although the language appears to provide for some discretion in setting the value, Article 9, § 18.3 specifies:

(3) Except as otherwise provided by subsections (5) and (6) of this section the value of real property and improvements and the value of mobile homes used for all ad valorem taxes except those specified in subsection (2) shall be the lesser of the full cash value of the property or:

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Since the determination of a limited property valuation is specified by Constitution and statute, and is not dependent on the full cash value of property for the tax years 1980 through 1982, the setting of such values is essentially a ministerial act.^{2/} In following the formula, the Board, then, will always be in compliance with the pertinent constitutional and statutory provisions.

Sincerely,



BOB CORBIN
Attorney General

BC:LPS:lfc

footnote 1 continued:

(a) For tax year 1980, an amount ten per cent greater than the full cash value determined for tax year 1979.

(b) For tax years 1981 and 1982, an amount ten per cent greater than the value of property determined pursuant to this subsection for the prior year.

The Constitution makes it clear that the determination of limited value is a function of full cash value or is subject to the 10% increase. There exists no discretion to establish an independent limited value.

2. We further note that A.R.S. § 42-201.02.D does give the Board discretion to set a limited property value for property which was totally omitted from the tax rolls in the prior year, or has had a use change or has changed in character since the prior tax year. The standard for setting the limited value is that it "shall be established at a level or percentage of full cash value comparable to that of other properties of the same or similar use or classification."

A.R.S. § 42-201.02.E provides that where a parcel's value-adding characteristics were in existence in the prior year but were not reflected on the tax rolls, the limited value may be adjusted pursuant to subsection D but the omitted characteristics will be deemed to have been made after the year 1979. In other words, for tax years 1980 through 1982, the limited value of such a parcel will be based on the formula of A.R.S. § 42-201.02.A.