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May 4, 1993

WILLIAM W. BOUTON III
TOWN OF WOODSTOCK
MAY 5 1993

Mr. Michael J. Balch
First Selectman
Town of Woodstock
P. O. Box 123
Town Hall, 415 Route 169
Woodstock, CT 06281

Re: Woodstock/General

Dear Mr. Balch:

You have asked, on behalf of the Board of Finance, for certain clarifications of "Proposition 46", a Woodstock Ordinance adopted in 1979, pursuant to which an increase in the Town's budget is restricted each year based on growth in the Grand List, certain other factors, and subject to certain exceptions. A copy of Proposition 46 is attached.

First of all, you have asked as to the validity of Proposition 46 in view of Connecticut cases which have been decided in the last five years. We have reviewed the reported decisions and have found no cases which have addressed the validity of such ordinances. We understand that a prior town attorney previously opined as to the validity of the Ordinance. In any event, the Town has acted consistently since 1979 by enacting budgets consistent with Proposition 46. Under these circumstances, we believe you and the Finance Board should assume that Proposition 46 is valid and that any budget proposed by the Board should be consistent with Proposition 46.

You have also asked whether the Town Meeting could validly adopt a budget inconsistent with Proposition 46. Although courts are reluctant to intervene in the legislative process, and the later act of a legislature generally controls if inconsistent with the former act (see Northeast Electronics Corporation v. Royal Associations et al, 184 Conn. 589 (1981)), we believe this rationale should not be used here. That rationale applies to "discretionary" actions. Proposition 46 is not "discretionary", as the term "shall limit" clearly shows a legislative intent that future budget actions must be consistent with Proposition 46. The

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Town Meeting specifically established in Proposition 46 rules to guide future Town budget adoptions, and the Town Meeting would have to specifically rescind or modify Proposition 46 before it can adopt a budget inconsistent with its provisions. Rescission or modification is an option, of course, but would have to be adopted specifically in a separate vote and prior to adoption of a budget inconsistent with Proposition 46.

You have also asked for general guidance on the limits of Proposition 46. You have supplied me with letters of advice from a prior Town Attorney and Bond Counsel wherein it appears that such counsel defer in large measure to the interpretation by the legislative process, as established at the Town Meeting and proposed by the Board of Finance. That general principle should continue to apply. Specifically, however, I offer the following suggested interpretations of Proposition 46:

- "Increase in the Town's combined annual budget" -- this refers to a dollar increase, not a percentage increase. Combined annual budget refers to the general government budget and the education budget.
- "Revenue generated by growth in the Grant List" -- means the difference in the Year 2 Grand List over Year 1 Grant List, multiplied by the current mill rate. This produces a dollar figure which should be added to last year's combined approved annual budget to arrive at this year's budget cap (the "Cap").
- "State and Federal assistance" -- means growth from Year 1 to Year 2 in dollar grants from State and Federal sources. Add this amount to the Cap to establish a new Cap.
- "Other income" -- means growth in this Revenue line item from Year 1 to Year 2. Again, add this to the Cap to establish a new Cap.
- I see no authority to reduce the Cap based on any decreases in the above 2 items.
- Proposition 46 does not include in its Cap, any of the following:
 - Increasing amounts for debt service on legal obligations (bonded debt increases).
 - Increases for court judgments against the Town.

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- Increases in State mandated programs. This item may refer to a number of education-related expenses that have been mandated by the State. They must be "mandated" (that is, the State must require these expenditures), such as the State's "MER" requirements (minimum education requirements).
- Increases in emergency expenditures. No ready definition is available here, but, generally, this would refer to unexpected items that require imminent resolution, such as those necessary to prevent loss of life, significant loss of property due to unexpected causes, and casualties caused by natural disaster not covered by insurance.

Amounts for each of the immediately preceding four items should be segregated from the rest of the budget and not included when determining whether the budget exceeds the Cap.

I hope this is helpful to you and the Board. Obviously, nothing in this letter should be interpreted as a suggestion that the budget be increased to the maximum allowable, but is only a discussion of the legal limits imposed by Proposition 46. If I can be of further assistance, please call.

Sincerely,



William W. Bouton III

Enclosure

cc: Kevin G. Ferrigno, Esq.