



March 5, 2008

The Honorable Allan Walker
First Selectman
Town of Woodstock
415 Route 169
Woodstock, CT 06281-3039

Re: Proposition 46 Interpretation: Budget Cap

Dear Mr. Walker:

You have asked us to review the Town ordinance known as Proposition 46 (the "Ordinance") in connection with the calculation by the Board of Finance of the maximum allowable increase in expenditures ("Budget Cap") contained in the Town's proposed annual budget (the "Budget").

By way of background, the Ordinance provides:

Resolved, the town shall limit the increase in the town's combined annual budget to revenue generated by growth in the Grand List, in State and Federal assistance, and in other income, except for increases, voted upon by town meeting, necessary to cover debt service on legal obligations, court judgments against the town, state mandated programs and emergency expenditures.

In the event of property revaluation, the actual dollar increase in the combined town budget shall be limited to the dollar amount of increase in the preceding year's budget or the average amount of increase over the preceding three years, whichever is lower.

The first paragraph of the Ordinance establishes a general rule for calculating the Budget Cap, from year to year, for the proposed annual budget for the ensuing year. In determining the Budget Cap, the Board of Finance must begin its calculation from the combined annual budget adopted at the previous year's Annual Town Meeting.

Under this general rule, the Budget Cap is calculated based on actual growth in revenue, and such growth, in turn, is calculated based on: (1) actual revenue increases



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generated by particular real and personal property additions to the Grand List (“Grand List Growth”); (2) actual revenue increases generated by additional state and federal assistance; and (3) actual revenue increases generated by additional “other income.” As we understand it, the general rule is designed to ensure that, apart from certain enumerated expenses as outlined below, any increase in overall expenditures is offset by an actual increase in revenue and that, therefore, such increase in expenditures is tax burden neutral.

The second prong of the ordinance authorizes the Board of Finance to increase their proposed Annual Budget above the Budget Cap to accommodate increases in four classes of expenditures: (a) debt service on legal obligations; (b) court judgments against the town; (c) state mandated programs; and (d) emergency expenditures.

In short, the ordinance directs the Board of Finance to limit the increase in the Town’s proposed annual budget to the increase in revenue generated by Grand List Growth, state and federal grants and other income, plus increases necessary to fund the four classes of expenditures outlined above.

In practice, the Board of Finance has established a Budget Cap for the proposed annual budget by adding new revenue to the previous years adopted annual budget. Once the Budget Cap is established, the Board of Finance then increases the allowable proposed budget by any increases budgeted in the four classes of expenditures outlined above. This calculation establishes the maximum allowable proposed annual budget for the ensuing year.

A town resident has raised a number of questions regarding the process used by the Board of Finance in implementing Proposition 46 from year to year. They are: (1) the validity of Proposition 46 as an ordinance; (2) whether the town can adopt a budget that is not consistent with Proposition 46; (3) interpretation of the terms used in Proposition 46; and (4) interpretation of the term “mandated programs” as used in the Ordinance. I will respond to each question.

A. The Validity of Proposition 46

As a general rule, the legislative enactments of a Connecticut municipality are presumed valid. As a municipal legislative enactment, an ordinance carries a strong presumption of legality: “every intendment is to be made in favor of the validity of [an] ordinance and it is the duty of the court to sustain the ordinance unless its validity is established beyond a reasonable doubt.” Builder’s Service Corp. v. Planning and Zoning Commission, 208 Conn. 267, 289-91 (1988). This principle is well established in Connecticut law.



Establishing an annual budget and raising revenue to fund the budget are core responsibilities of municipal government. A reviewing court would be very likely to find that a municipality has the legal authority to adopt an ordinance related to the process used by a Board of Finance to establish the Town's annual budget. As the local budget making authority, the Board of Finance has a duty to develop and propose to the Annual Town Meeting a budget that is consistent with the Proposition 46 ordinance.

B. Can the Town Meeting Adopt a Budget
That is Not Consistent with Proposition 46?

Pursuant to General Statutes §7-344, the Town Meeting can only act on the budget as proposed by the Board of Finance. As an ordinance of the Town, all subsequent actions of the Town Meeting must be in compliance with Proposition 46 unless and until the ordinance is repealed or amended.

C. Interpretation of the Terms Used in Proposition 46

Since its adoption in 1979, Proposition 46 has been reviewed and interpreted by a number of town attorneys. Regarding the interpretation of the words and phrases used in the ordinance, I note the following.

1. Unless the interpretations are clearly erroneous, deference should be given to a consistent interpretation of the words and phrases used in the ordinance by the Board of Finance over the years since the ordinance was adopted. After reviewing previous opinions of Town Attorneys and the process used by the Board of Finance to calculate the maximum allowable proposed budget, I believe the Board's interpretations of the words and phrases used in the ordinance are reasonable and effectively implement the intent of the ordinance.

2. The starting point for each year's Proposition 46 calculation is the previous year's adopted budget. The Budget Cap is developed from the adopted annual budget, not the actual expenditures under the budget in a given fiscal year. As such, the base calculation used to determine the Budget Cap may be, and usually will be, higher than actual expenditures since actual expenditures invariably will be less than budgeted appropriations. There is no authority in the language of the ordinance to require the Board of Finance to reduce the previous years adopted budget as the base calculation for the ensuing year's Budget Cap based on the prior year actual expenditures or internal budget transfers between individual line items.

3. As outlined above, the Budget Cap, which is developed based on revenue estimates, does not include exempt expenditures which must be added to the cap to determine the maximum allowable annual budget for the ensuing year. In reviewing the questions



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challenging the interpretation of the ordinance by the Board of Finance, an argument is made that the exempt expenditures should be subtracted from the Budget Cap calculation. I do not believe that the plain language of the ordinance supports this contention.

4. To the extent that there are exempt expenditures in a given budget year that represent non-recurring expenses added to the budget subsequent to the adoption of the Annual Budget, the Board of Finance should not include them in the base budget calculation when developing the Budget Cap for the ensuing year. For example, last year, an emergency expenditure was approved midyear to repair the Town Hall roof. Since this expense is non-recurring, it should be backed out of the base budget for purposes of calculating the next year's Budget Cap. Other exempt expenditures, such as increases to fund debt obligations, state mandated programs and certain court judgments, are likely to be recurring expenditures from year to year and should remain in the base budget for purposes of developing the Budget Cap.

D. Funding for Mandated Programs

Over the years, the Board of Finance has determined that two areas of Board of Education expenditures are "mandated" for purposes of Proposition 46: transportation and special education. This interpretation is based on specific state and federal laws that require, or "mandate" the local Board of Education to fund programs in these two areas.

The question is whether the level of funding for these two functional programs is mandated and whether a given increase from year to year, as proposed by the Board of Education, is mandated for purposes of Proposition 46.

Under well established Connecticut law, the Board of Finance has limited discretion in making substantive changes to the budget proposed by the Board of Education. A local board of finance does not have the power to refuse to include any appropriation necessary to effectuate the board of education's statutory duties and can reduce the estimate of the board of education only when the estimate exceeds the amount reasonably necessary to accomplish the purpose of the expenditure. Board of Education of the City of New Haven v. City of New Haven, 237, Conn. 169, 177 (1996). Certain Board of Education expenditures are outside of the review of the Board of Finance. For example, under state law, the board of education is statutorily vested with discretion over matters regarding transportation of students. Groton & Stonington Traction Co. v. Groton, 115 Conn. 151 (1932).

Under well-established Connecticut law, there is a complex relationship between the budget making authority of the Board of Finance and the Board of Education. Interpretations of Proposition 46 are subject to that law, which has its source in state statute, federal regulation and numerous decisions of the Connecticut Supreme Court and lower courts.



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Specifically, interpretation of the phrase "state mandated programs" as it relates to state educational mandates, must comply with existing law on the subject of proposed education expenditures. The Board of Finance has appropriately afforded deference to the Board of Education in determining the level of expenditures for school transportation and special education programs necessary to meet the state mandate for these programs.

In addition, once the annual budget is approved, the Board of Education has discretion to transfer appropriations from one line item to another without the consent of the Board of Finance. If the Board of Education transfers funds out of one of the transportation or special education line items, the Board of Finance has no explicit authority under the language of the ordinance to reduce the base budget for Proposition 46 calculation purposes.

At the request of the Town Treasurer, we reviewed the proposed calculations for the Proposition 46 maximum allowable budget for the 2007 and 2008 fiscal year combined annual budgets prior to the submission to the Annual Town Meeting. For both years, we found the calculations to be consistent with the language and intent of Proposition 46 and consistent with prior interpretations of the ordinance. After reviewing the documents and materials forwarded to our office for this letter, we reaffirm our previous conclusions.

I trust this responds to your inquiry. Should you have any further questions, please do not hesitate to contact me.

Very truly yours,

A large, stylized handwritten signature in black ink, appearing to read 'R. DeCrescenzo', written over the typed name.

Robert M. DeCrescenzo, Esq.
Town Attorney

RMDe/psm

cc: Barbara Rich,
Town Treasurer