

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF COMMUNITY AFFAIRS

PETITION FOR DECLARATORY ORDER
OF THE BOARD OF COUNTY COMMISSIONERS
OF CLEARFIELD COUNTY

UNDER THE
LOCAL GOVERNMENT UNIT DEBT ACT

DOCKET NO. 12

OPINION

The Board of County Commissioners of Clearfield County, filed a Petition for Declaratory Order with the Department of Community Affairs on February 5, 1982 under section 901 of the Local Government Unit Debt Act, act of April 28, 1978, P.L. 781, as amended, 53 P.S. §6780-1 et seq. The Petition for Declaratory Order requested the Department to make a determination on whether the unpaid portion of a 1981 tax anticipation note, having been included in the budget of the county for the 1982 fiscal year, was considered non-electoral debt under section 505 of the Local Government Unit Debt Act.

Carl A. Belin, Jr., Esquire, a citizen of Clearfield County and representing himself, filed an Answer to the petition and participated at a hearing on the petition on March 4, 1982.

At approximately the same time the Petition for Declaratory Order was before the Department, the County Commissioners and Mr. Belin were involved in civil litigation on the question of the County's authority to levy increased taxes under section 1770 of the County Code, act of August 9, 1955, P.L. 323, as amended, 16 P.S. §101 et seq. for the payment of the unpaid tax anticipation note. The County Commissioners' position was that by virtue of section 505 of the Local Government Unit Debt Act the unpaid tax anticipation note was non-electoral debt and, thus, under section 1770 of the County Code the County could levy taxes in excess of the 20 mills limit to pay off the "indebtedness" incurred pursuant to the Local Government Unit Debt Act.

This litigation took place before the Clearfield County Common Pleas Court from whose decision the County Commissioners appealed to the Commonwealth Court. The Commonwealth Court at Bundy v. Belin, 65 Pa. Commonwealth Ct. 339, 442 A.2d 844 (1982) ruled on the question and was affirmed recently by the Supreme Court in an opinion Bundy et al v. Belin, No. 39 W.D. Appeal Docket, 1982, issued on May 26, 1983.

This recent Supreme Court decision is dispositive of the issues raised in the Petition for Declaratory Order. Thus, the Department will make no additional ruling on the issues and will dismiss the Petition for Declaratory Order.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF COMMUNITY AFFAIRS

PETITION FOR DECLARATORY :
ORDER of the Board of County : UNDER THE LOCAL GOVERNMENT
Commissioners of Clearfield : UNIT DEBT ACT
County : LGUDA Docket No. 12

ORDER

As the decision of the Supreme Court in Bundy et al v. Belin issued on May 26, 1983 is dispositive of the issues raised in the above captioned Petition for Declaratory Order, the Department of Community Affairs hereby dismisses the Petition for Declaratory Order.

Shirley M. Dennis
Secretary
Department of Community Affairs

DATE ISSUED: July 8, 1983