



March 22, 2006

[REDACTED]

Re: Duration of Debt Exclusion
Our File No. 2006-96

Dear [REDACTED]

This is in response to your letter about the duration of a Proposition 2½ debt exclusion. Specifically, you ask about the validity of an exclusion where a borrowing has not occurred within two years of the exclusion vote. It is not clear from your letter whether the town has authorized the borrowing that was the subject of the exclusion, but has yet to issue the debt, or has yet to even authorize the borrowing.

The duration of a debt exclusion is an issue under Proposition 2½ because, unlike a levy limit override or capital expenditure exclusion question, a debt exclusion question does not specify the time period in which the additional levy capacity must first be used. G.L. Ch. 59 §21C(k). Instead, an approved debt exclusion question simply applies to "the amounts required to pay for the bond issued in order to" pay for the specified purpose (emphasis added).

We do not believe, however, that the absence of a fixed time period in the statute means an approved exclusion lasts indefinitely. We have consistently taken the position that a municipality has a reasonable period of time in which it may authorize the underlying borrowing for the project specified in the exclusion question without having to place another question before the voters. Whether a reasonable period of time has elapsed depends on the facts and circumstances regarding the borrowing at issue. At some point, due to the passage of time, any proposed borrowing will by necessity include changes in the cost or scope of the project that effectively make it a different project than the one contemplated at the time the exclusion was approved by the voters.

However, there is no time limit for actually issuing the debt if the municipality authorized the borrowing within a reasonable time. In that case, the exclusion will apply to any debt once issued.

I hope this information is helpful.

Very truly yours,

A handwritten signature in black ink that reads "Kathleen Colleary".

Kathleen Colleary, Chief
Bureau of Municipal Finance Law

KC