

2015 RES-524

SUPPORTING A PETITION FOR DECLARATORY JUDGEMENT REGARDING TAX  
IMPLICATIONS IF A TOWN WITHDRAWS FROM COUNTY ZONING

The Wisconsin Legislature recently adopted Wis. Stat. §60.23(34) which authorizes towns in Dane County to withdraw from county zoning jurisdiction. If a town withdraws from county zoning it will be required to adopt and administer a zoning ordinance. The Dane County Towns Association (DCTA) has repeatedly represented to its members that if a town withdraws from county zoning the tax levy the county imposes for zoning can be shifted to the towns. A “levy shift” is only permissible under state statute if a political subdivision transfers to another governmental unit the responsibility for providing a service. If a town voluntarily elects to withdraw from county zoning, the county is not transferring responsibility for providing a service. Therefore, no levy shift should occur if a town withdraws from county zoning.

The County Executive is required by statute to propose a budget to the County Board. The County Board is required to adopt a budget in a timely fashion. The budget is based upon the annual tax levy. Towns have a similar statutory requirements regarding town budgets.

Due to DCTA’s repeated representations regarding levy shifting, it is necessary to get a declaration of county’s rights and responsibilities under state law. Since time is of the essence in getting this matter resolved before the 2017 budget cycle, the County Executive has directed the Office of the Corporation Counsel to commence a declaratory judgment action in circuit court. This action seeks no affirmative relief from any party, but rather seeks only a declaration by the court that if a town withdraws from county zoning a levy shift does not occur under Wis. Stat. §66.0602(3). Such a declaration will provide certainty to both county and town officials as they prepare their 2017 budgets.

NOW, THEREFORE, BE IT RESOLVED that the Dane County Board of Supervisors supports the petition filed in circuit court for a declaratory judgement that, if a town withdraws from county zoning, a levy shift from the county to the town does not occur.