

**Opinion No. 20-2706**

October 7, 1920

**BY:** N. D. MEYER, Assistant Attorney General

**TO:** State Tax Commission, Santa Fe, New Mexico.

Levy of Taxes for Village Purposes.

**OPINION**

We have your letter of recent date which is accompanied by a letter from P. P. Sanchez, Village Clerk of Duran, and a certified copy of Ordinance No. 12.

You state in your letter that the Village of Duran was incorporated April 5, 1920; that Ordinance No. 12, providing for a tax levy for the maintenance of said incorporated village was passed June 5, 1920, and that the Board of County Commissioners have refused to recognize the validity of the proceedings of the Board of Trustees in levying this tax, and ask whether the village had authority to make said levy, and further, if the Commissioners have the right to reject it.

The authority of a village incorporation to make such levy and the procedure which should be followed is set forth in Sections 3777 and 5472 of the Code of 1915. Section 3777 provides that the Board of Trustees have the power by ordinance to levy a tax not exceeding one half of one per cent, in any one year upon the taxable property in such village, which tax shall be collected for the purpose of defraying the expenses of the village government.

Section 5472 states that at a meeting to be held prior to the meeting of the County Commissioners provided for in the last preceding section, the Board of Trustees shall make and order a levy of taxes for all municipal purposes, including the support and maintenance of the public school, and certify the same to the County Commissioners.

Reading these sections together, I am of the opinion that the proceedings in the case before us are regular.

Section 5471 provides that it shall be the duty of the Board of County Commissioners of each county in the state to make and order all levies of the necessary taxes for the ensuing fiscal year as provided by law, and to certify the same, and the rate thereof, to the County Assessor.

Under these provisions of law, one is led to the conclusion that the proceedings had in the case of the Village of Duran have been regular, and that the Board had no authority to refuse to make the levy on the showing made by the Village of Duran. The only

limitation that I find is contained in Section 3777, and that is only in regard to the amount of the levy.

Trusting this answers your questions, I beg to remain,