

THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN THE ARIZONA TAX COURT

TX 2024-000143

04/21/2025

HONORABLE ERIK THORSON

CLERK OF THE COURT
A. Smith
Deputy

COCONINO COMMUNITY COLLEGE
DISTRICT

CHARLES W WIRKEN

v.

PROPERTY TAX OVERSIGHT COMMISSION, BRIAN M BERGIN
THE

RULING

The Court held oral argument on February 19, 2025, on the briefing in this appeal of a Property Tax Oversight Commission (“the Commission”) decision, which held that the Coconino Community College District (“the District”) adopted a primary property tax levy in excess of the legal limit for the same. The Court took the matter under advisement that date. This is the under advisement ruling.

At issue are three types of levy limit increases, and art. 9, sec. 19 of the Arizona Constitution addresses all three: (1) a growth or two-percent increase (art. 9, sec. 19, parts 1, 4), (2) a new construction increase (art. 9, sec. 19, part 6), and (3) a voter-approved phase-in reset increase (art. 9, sec. 19, part 5).

Voters approved the third type for the District in 2022 (I.R. 3, at 33), and the Commission later decided that the first two types did not apply during the three-year phase-in of that third type (I.R. 11, at 126). This was error.

The Commission’s decision does not reference any part of the Arizona Constitution and instead privileges statutory language to reach its conclusions. (I.R. 11, at 125–26.) But statutes cannot circumvent or modify constitutional requirements. *Fann v. State*, 251 Ariz. 425, 434 (2021).

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At oral argument, the Commission's counsel contended that Ariz. Const. art. 9, sec. 19, part 1's growth-increase requirements were satisfied by the phased-in increase operative under art. 9, sec. 19, part 5, after voter approval. The Commission's written decision states that the District's interpretation undermines the principal statutory purpose of A.R.S. § 42-17056(F). (I.R. 11, at 126.) Neither the language of the Arizona Constitution nor the cited statutory language supports the Commission's interpretation, however. The statute's language nowhere renders the constitutional provisions 'satisfied' nor inapplicable during the three-year phase-in, nor could it. *See Fann*, 251 Ariz. at 434.

Therefore,

IT IS ORDERED reversing the Commission's determination and remanding with instructions to approve the addition of the growth and new construction levy limit increases during the three-year phase-in period of the base levy limit increase. No later than twenty days after the filing of this Order by the Clerk of the Superior Court, the District shall submit a proposed form of Rule 54(c) judgment. JRAD 13(b). Ariz. R. Civ. P. 58 then governs the timeline for submissions of objections and replies.