

Municipal Judgments and Remedies

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Standard of Judicial Review

The municipality's discretion is subject only to judicial review for reasonableness. *Red River Construction Company v. City of Norman*, 624 P.2d 1064 (Okla. 1981). A court may not substitute its judgment for that of the local governing body. *Glaser v. Tulsa Metropolitan Area Planning Commission*, 360 P.2d 247 (Okla. 1961). It may not weigh the equities or test the weight or sufficiency of facts relied on by the local governing body. *McConnell v. Town Clerk of Tipton*, *supra*. It may not inquire into the wisdom or effects of the local legislative act. *King v. City of Tulsa*, 415 P.2d 606 (Okla. Cr. 1966).

The only justiciable question is whether the municipality's actions are ". . . manifestly unreasonable and oppressive, unwarrantedly invade private rights, clearly transcend the police powers given to them, or infringe on the rights secured by fundamental law." *Utility Supply Co., Inc. v. City of Broken Arrow*, *supra*.

This doctrine is required by the Constitution's separation of powers mandate. OK Const. Art. 4, §1. Therefore, a suit to challenge a municipality's decision based on an "arbitrary and capricious" theory **is not an appeal**. It is a new action in which the challenging party has the burden of proving the unreasonableness of the measure. If there is room for fair debate as to whether the legislative act is arbitrary or unreasonable, the court will not disturb it. *Courter Oil Co. v. Oklahoma City*, 167 Okla. 633, 31 P.2d 596 (1934).

Qui Tam Suits: taxpayer recovery

State law authorizes a taxpayers' suit against any participating public officer or any party having notice of the facts of a transaction involving public funds to recover treble the amount of such funds paid for any unauthorized, unlawful or fraudulent contract or agreement. The same liability arises from void or unauthorized transfers of public property. 62 O.S.1991 § 372 *et seq.* The statute of limitations for such suits is two (2) years for presentation of a demand and six (6) months following any refusal of the governing body to act. 62 O.S. § 374.

How judgments are paid

The term "judgment" means the final determination by any court of competent jurisdiction in any action or proceeding to determine the rights of parties. 62 O.S. § 361. The Oklahoma Constitution requires political subdivisions to establish sinking funds to pay the principal and interest on general obligation bonds and to pay judgments. OK Const. Art. 10, § 28. These are the exclusive uses for the sinking fund. *State v. Moreland*, 152 Okla. 37, 3 P.2d 803 (Okla. 1931).

The sinking fund is financed by ad valorem levies once each fiscal year. 68 O.S. § 3014. Each such entity must make sufficient levy of revenues to pay the judgments against them. 68 O.S. §§ 3009-3010; Op.Atty.Gen. No. 71-266. The sinking fund is the only source of funds provided by law for payment of judgments against political subdivisions. General fund revenues are collected for the purposes of the public body's general fund and are not transferable from general fund to sinking fund or subject to use for payment of judgment, notwithstanding that such judgments were based on prior obligations of general fund. *Tulsa County Excise Bd v. Texas-Empire Pipe Line Co.*, 180 Okla. 287, 68 P.2d 861 (1937).

State statutes provide a mechanism for collection of judgments within the constitutional scheme.

62 O.S. §§ 365.1 *et seq.* "Money judgments against any county or other municipal subdivisions of the State of Oklahoma shall be paid in the following manner, and may be paid in no other manner." 62 O.S. § 365.5. Basically, the process provides for satisfaction of the judgment from the sinking fund over a three-year period with interest accumulating during the delay. During that time, the political subdivision causes levies to be made for the sinking fund.

Satisfaction of Judgment. Although some judgment creditors obtain payment early by selling their judgments, there is no substitute for the statutory process in the absence of sufficient insurance coverage for the public body. Thus, a judgment creditor does not have the usual methods for execution of a judgment. He cannot execute against public property or the public treasury. He cannot satisfy a money judgment by suit on supersedeas. method *City of Del City v. Harris*, 508 P.2d 264 (Okla 1973). The statutory process for collection of judgments against municipalities provides the exclusive method of satisfaction of judgments against municipalities. *Russell v. Board of County Com*