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COURTHOUSE  
COUPEVILLE, WASHINGTON 98239  
678-5111  
AREA CODE 206

March 2, 1984

Hon. Kenneth O. Eikenberry  
Washington State Attorney General  
Temple of Justice  
Olympia, WA 98504

Re: Opinion Request/Use of Capital Improvements Fund  
for Purchase of Sheriff's Department Vehicles

Dear Mr. Eikenberry:

Island County has elected to pass a real estate excise tax under chapter 82.46 RCW, the proceeds of which have been placed into a county capital improvements fund as provided for under RCW 82.46.030. The term "capital improvements" is undefined in chapter 82.46 RCW, and thus an issue has arisen as to what "capital improvements" may be funded with proceeds from the county capital improvements fund. We note that RCW 82.46.030(2) provides, in part, that "capital improvements funds shall be used by the respective jurisdictions for local improvements, including those listed in RCW 35.43.040," but there is uncertainty as to whether funds may be expended for certain items not specifically listed in RCW 35.43.040.

Specifically, Island County would like to be able to use capital improvements fund money to purchase vehicles for the Island County Sheriff's Department. Vehicles are not listed in RCW 35.43.040, but the dictionary meaning of the term "capital improvements" could be broadly interpreted to include vehicles. On the other hand, we recognize that vehicles may not be considered "capital improvements" as that term is used in ordinary language.

With the foregoing as background, we request your opinion as to whether money from Island County's capital improvements fund, established under chapter 82.46 RCW, may be used to purchase

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vehicles for the Island County Sheriff's Department. Thank you  
very much for your consideration.

Very truly yours,

DAVID F. THIELE  
PROSECUTING ATTORNEY

*Alan R. Hancock*

BY: ALAN R. HANCOCK  
DEPUTY PROSECUTING ATTORNEY.

ARH:kk

cc: Board of County Commissioners

F 5. 1230



# OFFICE OF THE ATTORNEY GENERAL

March 6, 1984

Mr. Alan R. Hancock  
Deputy Prosecuting Attorney  
Island County  
Courthouse  
Coupeville, WA 98239

Dear Sir:

We are in receipt of your letter dated March 2, 1984, requesting our opinion regarding the use of tax proceeds derived from a county real estate excise tax imposed pursuant to RCW 82.46.010.

In posing your question, you have focused on the term "capital improvements" and have asked whether that term ". . . could be broadly interpreted to include vehicles . . ."; i.e., additional vehicles for the county sheriff's department. As we read the applicable statutory provisions, however, it would appear to us that the critical term is not "capital improvements" but, instead, is "local improvements." See, specifically, the final sentence of RCW 82.46.030(2) which reads:

". . . These capital improvement funds shall be used by the respective jurisdictions for local improvements, including those listed in RCW 35.43.040." (Emphasis supplied)

In turn, RCW 35.43.040 lists the kinds of "local improvements" which fall within the purview of that statute. That listing of authorized local improvements seems to us to be limited to the various kinds of things which may be done to a tract or parcel of tangible real property as an improvement thereto.

Accordingly, without regard to the abstract question you have posed (i.e., whether vehicles constitute capital improvements), we would find it most difficult to support the critical proposition here; namely, that such vehicles qualify as "local improvements" as that latter term is used in RCW 82.46.030(2), supra, and in RCW 35.43.040.

OFFICE OF THE ATTORNEY GENERAL

Mr. Alan R. Hancock

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March 6, 1984

It is hoped that the foregoing will be of assistance to you.

Very truly yours,

PHILIP H. AUSTIN  
Senior Deputy Attorney General  
(206) 753-6205

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