

**OPINION NO. 66-139****Syllabus:**

The County Budget Commission is required to consider the request of a County Park District for a tax levy, under the provisions of Section 1545.20, Revised Code, and to certify such levy, or such modification thereof as it deems advisable, to the County Auditor to be placed upon the tax duplicate.

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**To: Edwin T. Hofstetter, Geauga County Pros. Atty., Chardon, Ohio**  
**By: William B. Saxbe, Attorney General, August 19, 1966**

Your letter requesting information about a County Park District is as follows:

"This office has been requested by the Geauga County Park District to obtain an opinion from your office concerning a matter of a tax levy within the Ten Mill Limitation.

"This office has advised the Park District that by reason of the nonexistence of the Park Board at the time the Fifteen Mill Limitation was in effect, that there was no authority under section 5705.31 for the Budget Commission to include the present Geauga County Park District for all or a portion of the funds authorized to a Park District under section 1545.20.

"In reviewing 5705.31, it came to our attention that the Supreme Court of Ohio in 140 OS 65 on June 10th of 1942, held that section (D) of that section was directory and not mandatory. It appears that section was amended so as to include section (F) which reads as follows:

"(F) Divisions (A), (B), (C), (D), and (E) are mandatory and commissions shall be without discretion to reduce such minimum levies except as provided in such divisions."

"It is my impression that the State Auditor's office may be in accordance with my thinking.

"In the interest of resolving this matter to the full satisfaction of the

Geauga Park District and this office, would you please forward your opinion on this matter at the earliest possible date."

While no direct questions are asked, it is plain that confusion exists between the provisions of Section 5705.31, Revised Code, (Tax Levy law) and Section 1545.20, Revised Code, (Park District law). Section 5705.31, Revised Code, provides, in effect, that the minimum levy within the ten mill limitation shall equal two-thirds of the average levy for current operating expenses and debt service allotted within the fifteen mill limitation to such taxing unit during the last five years said fifteen mill limitation was in effect. Your letter states you advised the Park District that because the Park Board was not in existence when the fifteen mill limitation was in force that there is no authority for the Budget Commission to include the Park District in its budget for current operating money.

Section 1545.20, Revised Code, provides that the board of park commissioners may levy taxes not in excess of one-half mill, on each dollar of the assessed valuation of property in the district in any one year, subject to the combined maximum levy for all purposes otherwise provided by law, and when the budget commission certifies such levy, or such modification thereof as it deems advisable, to the county auditor, he shall place it upon the tax duplicate and the park board may borrow money or issue notes in anticipation of the proceeds of such levy.

Thus, one section of the law seems to provide that there is no authority for a park district to have an operating levy because the board was not in existence when the fifteen mill limitation was in effect, and another section of law specifically provides for an operating levy for a park district.

Applying the usual rules of construction, a legislative enactment dealing specifically with a subject takes precedence over a general enactment of the same subject. Further, in resolving apparent conflicts between two sections of the statutes, that construction should be used which more nearly gives effect to the legislative intent.

It is clear that the legislature intended for counties to have parks, as evidenced by the enactment of an entire chapter of the statutes (Chapter 1545) providing for the creating, financing, and operating of public parks. Among the provisions of this chapter is a specific direction that a tax levy for operating such parks be included in the county budget. To hold that another, general section nullifies such specific authority would be a clear violation of legislative intent, as funds for the operation and enjoyment of such parks are a necessity.

It is, therefore, my opinion that Section 1545.20, Revised Code, is controlling, and that a County Park District may legally levy taxes as so provided.