



Office of General Counsel
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October 18, 2023

Representative Frank Hornstein
Metropolitan Governance Task Force Chair

Via Electronic Delivery

Re: October 13 letter

Dear Representative Hornstein:

Thank you for your October 13, 2023 letter on behalf of the Metropolitan Governance Task Force, which was received on Monday, October 16, 2023.

The Metropolitan Council is a legislatively created body that "is established as a public corporation and political subdivision of the state." Minn. Stat. § 473.123, subd. 1.

The law is well-settled that "a municipal corporation has only such powers as are expressly conferred upon it by statute or charter, or necessarily implied. It has no inherent power." *Borgelt v. City of Minneapolis*, 135 N.W.2d 438, 440 (Minn. 1965)(citations omitted). The Council operates within the bounds of its legislatively created authority on a day-to-day basis and takes its direction from its enabling legislation, and subsequent legislation passed into law governing the Council.

The law allows for the Council to exercise taxing authority, such as the recently enacted regional transportation and housing sales and use taxes. See the statutes expected to be codified as follows: Minn. Stat. § 297A.9915, subd. 2 (transportation/transit), and § 297A.9925, subd. 2 (housing). The Council has had property tax levy authority since its creation in 1967. See Minn. Stat. § 473B.08 (1967). The Council also had property tax levy authority for debt service of the former Metropolitan Waste Control Commission and the former Metropolitan Transit Commission, both of which former commissions' functions and duties were transferred to the Council in 1994. See *generally* 1994 Minnesota Laws ch. 628. The Council's taxing authorities include: 1) general property tax levy (Minn. Stat. § 473.249, subd. 1); 2) Right-of-Way Loan Acquisition Program (Minn. Stat. § 473.167, subd. 3); 3) Livable Communities Act Programs (Minn. Stat. § 473.254, subd. 5(b)); 4) Wastewater Treatment Systems Obligations (Minn. Stat. § 473.541, subd. 1); and 5) Metropolitan Area Transit Tax (Minn. Stat. § 473.446). These property taxes are subject to levy limits established by the Legislature. For decades, the Legislature has also authorized the Council to issue bonds for capital purposes. Those bonds have been backed by the full faith and credit of the Council.

To the extent that there are any questions about what the Legislature intended, or whether the Legislature's grant of authority to the Council is somehow unconstitutional, those are issues that are appropriately addressed to and answered by the Legislature.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ann K. Bloodhart".

Ann K. Bloodhart
General Counsel

cc: Metropolitan Governance Task Force Members