

Home rule has been a topic that has been discussed very frequently recently.

What is home rule?

According to the Illinois Association of Realtors (IAR), under the Illinois Constitution, subject to certain specific exceptions, a home-rule municipality “may exercise any power and perform any function pertaining to its government affairs.”

Home rule expands a local government’s ability to impose laws, tax and incur debt.

The following entities have home rule powers:

- Municipalities of at least 25,000 in population;
- Municipalities of any size if the votes approved home rule by referendum;
- Counties with an elected chief executive (only Cook County Government)

The most prominent feature of home rule authority is the power to impose a variety of taxes. A home rule cannot tax income. A home rule unit can incur debt.

According to Article VII, Section 6 of the Illinois State Constitution, a home rule unit may exercise any power and perform any function pertaining to its government and affairs including, but not limited to the power to regulate for the protection of the public health, safety, morals and welfare; to license; to tax and to incur debt (unless the Illinois General Assembly specifically denies or limits a home rule power by a law approved by the vote of three-fifths of the members elected to the house).

Since the enactment of home rule in 1970, several onerous ordinances have been enacted which affect real estate, including the following:

- Residential landlord/tenant ordinances (Chicago and Mount Prospect have such laws);
- Multi-family Rental Licensure/Inspection ordinances;
- Developer land dedications or cash-in-lieu for schools and parks;
- Higher property tax levies (Under the state law which imposes property tax caps), home rule units are exempt from the caps);
- Pre-sale home inspection ordinances;
- Real Estate Transfer Tax (Under a state law enacted in 1997 and introduced by IAR, home rule units must seek voter approval in order to increase an existing transfer tax or impose a new one).

In recent year, local Realtor associations have been very successful in helping defeat home rule referenda by writing to homeowners and discussing the implications of home rule for property owners.

Tom Joseph, our Government Affairs Director (South), was recently quoted in The Star, “Village inspectors can set high standards for property inspection, and can dictate what the owner must fix up before the property can be sold.”

On the issue of pre-sale home inspections home rule municipalities often can wield significant power over the seller of a home by demanding the repair or replacement of costly items which have no impact on the health or safety of the residents. Often, villages are attempting to enforce “community property maintenance codes” through the inspection process, requiring the weeding of flower beds, repairing cracks in a driveway, replacing planting borders, or replacing worn carpeting.

Inspection ordinances commonly have a provision which require homeowners to submit to a search without a warrant, sounds pretty un-American doesn't it? RWSSC works with homeowners and villages to address these sorts of issues.

The ability to incur debt can introduce a danger if the municipality isn't careful to balance it's finances. In the worst scenarios, a village incurs too much debt based on a rosy projection for tax revenue and then finds itself having to go back to property tax owners to pay the debt.