1956 361 219

October 19, 1956

Mr. Earl K. Snow, General Manager
Earl K. Snow & Company
Republic Building
Louisville 2, Kentucky

Dear Sir:

We have your undated letter received by this Department today in which you are asking for an opinion as to whether your water [illegible] to fight the Mallon Plan.

Our answer to your question is no. The Buechel Water District is a political subdivision of the Commonwealth of Kentucky, created for the purpose of establishing a water production plant to furnish water service to the inhabitants of said district and to maintain, [illegible] and enlarge that plant when necessary, or to secure water services from a plant already established for the inhabitants of said district, and having right to levy a fee against each citizen thereof that receives water from said district to pay his proportionate part of the cost of the services rendered.

The water services rendered to each citizen constitutes a public function, and the amount of the fee charged to each citizen is in the nature of a tax necessary to pay the expense of the governmental function of serving water to such citizen. To expend any part of the funds arising from fees for water services for any purpose other than those for which the district was created is to contravene the provisions contained in sections 171 and 150, State Constitution, and to do so is illegal. The officer making such illegal expenditure subjects himself to the obligation upon the demand of any citizen who pays fees for water services to either recover from the person to whom the illegal sum was donated or to reimburse the district for the amount of the illegal donation.

Respectfully submitted,
JC M. FERGUSON
ATTORNEY GENERAL
By:
M. B. Holifield
Assistant Attorney General

MBH:lpr