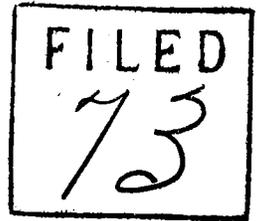


COUNTY COURT: Not authorized to employ Abstractor to assist Assessor in making Assessor's Book.



August 8, 1945

Honorable W. Oliver Rasch
Prosecuting Attorney
Jefferson County
Festus, Missouri

Dear Mr. Rasch:

Under date of July 17, 1945, you requested the Attorney General to furnish an opinion upon the following question:

"The County Court of this county desires to employ an Abstractor to revise the tax books of this county. He would compare his Abstract Books with those of the Assessor, would add any omitted real estate, correct and make proper legal descriptions and, if same is not assessed in the name of the present record owner, list it in his name. The County Court proposes to pay the Abstractor 20¢ a name for this service.

"Please advise if the County Court has authority to enter into a contract with an Abstractor to have this work done, assuming it is included in the budget."

The tax books are prepared by the County Clerk from the Assessor's Book. Section 11048, R. S. Mo. 1939. The Assessor is required to prepare the Assessor's Book. Section 10969, R. S. Mo. 1939, which reads as follows:

"The assessor, on examination and comparison of the list of property delivered by individuals, and the list of lands furnished by the secretary of state, and said maps and plats, and after diligent efforts for ascertaining all taxable property in his county, shall make a complete list of all the taxable property in his county, to be called the assessor's book."

By reading this section it appears the material to be used in making the assessor's book is taken from the assessment lists furnished the Assessor in accordance with the provisions of Section 10950, R. S. Mo. 1939, which reads as follows:

"The assessor or his deputy or deputies shall between the first days of June and January, and after being furnished with the necessary books and blanks by the county clerk at the expense of the county, proceed to take a list of the taxable personal property and real estate in his county, town or district, and assess the value thereof, in the manner following to wit: He shall call at the office, place of doing business or residence of each person required by this chapter to list property, and shall require such persons to make a correct statement of all taxable property owned by such person, or under the care, charge or management of such person, except merchandise which may be required to pay a license tax, being in any county of this state in accordance with the provisions of this chapter, and the person listing the property shall enter a true and correct statement of such property,

in a printed or written blank prepared for that purpose; which statement after being filled out, shall be signed and sworn to, to the extent required by this chapter by the person listing the property and delivered to the assessor. Such lists shall contain: first, a list of all the real estate and its value, to be listed and assessed on the first of June, 1937, and every year thereafter, anything in this or any other section to the contrary notwithstanding; second, a list of all the livestock, showing the number of horses, mares, and geldings, and their value; the number of asses and jennets, and their value; and the number of mules and their value; the number of neat cattle, and their value; the number of sheep, and their value; the number of hogs and their value and all other live stock and its value; third, an aggregate statement of all the farm machinery and implements, and their value; fourth, a statement of household property, including the number of pianos and other musical instruments, clocks, watches, chains and appendages, sewing machines, gold and silver plates, jewelry, household and kitchen furniture, and the value thereof; fifth, money on hand; sixth, money deposited in any bank, or other safe place; seventh, an aggregate statement of solvent notes unsecured by mortgage or deed of trust; eighth, an aggregate statement of all solvent notes secured by mortgage or deed of trust; ninth, an aggregate statement of all solvent bonds, whether state, county, town, city, township, incorporated or unincorporated companies; tenth, the number of bee colonies and their value; ten and one-half, all motor vehicles and their value; eleventh, all other property not above enumerated (except merchandise, bills and accounts receivable, and other credits of a merchant

or manufacturer, arising out of the sale of goods, wares and merchandise, which have been returned for taxation, under sections 11309 and 11339, R. S. 1939), and its value; under this head shall be included all shares of stock or interest held in steamboats, keelboats, wharfboats, and other vessels; all toll bridges, all printing presses, type and machinery therewith connected, and all portable mills of every description, and all vehicles used in the transportation of persons (except of railway carriages), and all paintings and statuary, and every other species of property not exempt by law from taxation. The word 'list' as used in Section 10996 of this Chapter shall include all the lists required under this section to be taken."

And, lists made by the Assessor in accordance with the provisions of Section 10954, R. S. Mo. 1939, which reads as follows:

"Whenever there shall be any taxable property in any county, and from any cause no list thereof shall be given to the assessor in proper time and manner, the assessor shall himself make out the list, on his own view, or on the best information he can obtain; and for that purpose he shall have lawful right to enter into any lands and make any examination and search which may be necessary, and may examine any person upon oath touching the same."

The lists of lands furnished by the Secretary of State are also to be used, and the Assessor has free access to the maps and plats provided in accordance with Section 10966, R. S. Mo. 1939.

From the foregoing it is apparent that the duty is placed upon the Assessor to make the Assessor's Book and for this work compensation is authorized by Section 10996, R. S. Mo. 1939, which reads as follows:

"The compensation of each assessor shall be thirty-five cents per list in counties having a population not exceeding forty thousand, thirty cents per list in counties having a population of more than forty thousand, and not exceeding seventy thousand, and twenty-five cents per list in counties having a population in excess of seventy thousand inhabitants, and shall be allowed a fee of three cents per entry for making real estate and personal assessment books, all the real estate and personal property assessed to one person to be counted as one name, one-half of which shall be paid out of the county treasury and the other half out of the state treasury: Provided, that nothing contained in this section shall be so construed as to allow any pay per name for the name set opposite each tract of land assessed in the numerical list: Provided further, that in the city of St. Louis the assessor shall perform the duties now performed by the county clerk in extending taxes on the assessment books and such other services pertaining thereto as may be required by law, and shall be allowed the same compensation as is allowed by law to county clerks for such services; and provided also, that in all counties of this state having more than one hundred and fifty thousand and less than three hundred thousand inhabitants except in such counties as the assessor may now or hereafter be paid an annual salary in lieu of such fees, the compensation of the assessor shall be twenty-five cents per list together with such other fees as may be authorized by law."

With the facilities available to the Assessor mistakes may be reduced to a minimum. And, while it might be of some assistance to the Assessor to have an Abstractor make a comparison of the Abstractor's books with the Assessor's book, no statute has been found which authorizes the County Court to expend the funds of the county in that manner.

At this point it is pertinent to call attention to a brief quotation from the case of Nodaway County v. Kidder, 129 S. W. (2d) 857, 1. c. 860:

"County courts are courts of record, created and given jurisdiction to transact all county business, and to audit and settle all demands against the county. Article 6, Section 36, Constitution of Missouri, Mo. St. Ann.; Sec. 2078, R. S. Mo. 1929, Mo. St. Ann., Sec. 2078, p. 2658. The above statute providing for settling and auditing claims against the county applied only to lawful demands and does not authorize the county court to audit and settle claims arising on void contracts. * * * * *

CONCLUSION

It is, therefore, the opinion of the Attorney General that the County Court of Jefferson County may not employ an Abstractor to revise the Assessor's book, and pay such Abstractor twenty cents per name for such service.

Respectfully submitted,

W. O. JACKSON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

WOJ:CP