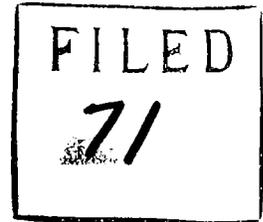


REAL PROPERTY: Tracts of land omitted in previous years from
TAXATION: assessment may be assessed when discovered,
and the assessment of land or lots in numerical
order or by plats in a land list in alphabetical order, shall
be a sufficient assessment. However, no land can be sold for
delinquent taxes under the Jones-Munger procedure for tax sales
unless the notice of sale contains the names of all record owners
or the names of all owners appearing on the land tax book. There-
fore, it appears necessary in the situation presented by this
opinion request that the owner(s) of record of the land in question
must be determined before a sale for delinquent taxes can be had.

March 16, 1954



Honorable Walter W. Pierce
Prosecuting Attorney of Bates County
200 Seelinger Building
Butler, Missouri

Dear Sir:

By your letter of January 20th, 1954, you requested an
official opinion, as follows:

" * * * STATEMENT OF FACTS

"The County Treasurer states that
there are, in this county, a consider-
able number of small tracts of land,
of little market value, the title owners
of which are very difficult to deter-
mine, if indeed any determination could
be made at all.

"QUESTION: The only question arising
is, if these lands were to be assessed
against whom should they be so assessed?
(It is desired to have them assessed and
sold for taxes in order to get them back
on the books as a source of revenue to
the State.)"

We note that Bates County is a county of the third
class with township organization.

In a subsequent letter you stated:

Honorable Walter W. Pierce

" * * * by 'title owners', we refer to the owners appearing on the records of the recorder's office."

Section 137.165, RSMo 1949, provides for assessment of lands omitted in the assessment of previous years, as follows:

"If by any means any tract of land or town lot shall be omitted in the assessment of any year or series of years, and not put upon the assessor's book, the same, when discovered, shall be assessed by the assessor for the time being, and placed upon his book before the same is returned to the court, with all arrearages of tax which ought to have been assessed and paid in former years charged thereon."

Section 137.170, RSMo 1949, provides that each tract of land is charged with its own taxes.

"Each tract of land or lot shall be chargeable with its own taxes, no matter who is the owner, nor in whose name it is or was assessed. The assessment of land or lots in numerical order, or by plats and a land list in alphabetical order, as provided in this chapter, shall be deemed and taken in all courts and places to impart notice whatever they may be, that it is assessed and liable to be sold for taxes, interest and costs chargeable thereon; and no error or omission in regard to the name of any person, with reference to any tract of land or lot, shall in anywise impair the validity of the assessment thereof for taxes."

Sections 137.430 and 137.435, RSMo 1949, make provisions for assessment of lands in township organization counties:

Section 137.430.

"All personal property shall be assessed annually; real property shall be assessed as provided by law."

Honorable Walter W. Pierce

Section 137.435.

"All real property shall be assessed in the township in which the same is situated, with the owner's name thereof, if known; if the owner's name is not known, then it shall be assessed as nonresident."

Thus, it is not necessary, for a valid assessment of land, that the record owner, or other owner be known.

However, land cannot be sold for delinquent taxes by an administrative procedure as provided by the "Jones-Munger Act" unless notice is given as required by Article X, Section 13, Missouri Constitution of 1945:

"No real property shall be sold for state, county or city taxes without judicial proceedings, unless the notice of sale shall contain the names of all record owners thereof, or the names of all owners appearing on the land tax book, and all other information required by law."

Section 140.150, RSMo 1949, makes similar provisions:

"1. All lands and lots on which taxes are delinquent and unpaid shall be subject to sale to discharge that lien for said delinquent and unpaid taxes as provided for in this chapter on the fourth Monday in August of each year.

"2. No real property shall be sold for state, county or city taxes without judicial proceedings, unless the notice of sale shall contain the names of all record owners thereof, or the names of all owners appearing on the land tax book and all other information required by law; provided, however, delinquent taxes, with penalty, interest and costs, may be paid to the county collector at any time before the property is sold therefor.

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"3. The entry of record by the county collector listing the delinquent lands and lots as provided for in this chapter shall be and become a levy upon such delinquent lands and lots for the purpose of enforcing the lien of delinquent and unpaid taxes, together with penalty, interest and costs."

Provision for selling land for delinquent taxes in third class counties (as is Bates County) is made by the "Jones-Munger Act."

The Supreme Court of Missouri declared in Granger v. Barker, 236 S.W. (2d) 293, l.c. 295, that such sales were not judicial proceedings:

"The tax sale involved in this case was held under the provisions of the Jones-Munger Law, Sec. 11117ff, R.S. 1939, Mo. R.S.A. Sec. 11117ff. Since the enactment of this law in 1933, sales of land for delinquent taxes have been by administrative rather than by judicial proceedings as was formerly the case. * * *"

Therefore, it must be concluded that land cannot be sold for taxes under the Jones-Munger procedure unless the notice of sale contains the names of all record owners, or the names of all owners appearing on the land tax book.

CONCLUSION

In the premises, it is the opinion of this office that tracts of land omitted in previous years from assessment may be assessed when discovered, and that the assessment of land or lots in numerical order, or by plats in a land list in alphabetical order, shall be a sufficient assessment. However, no land can be sold for delinquent taxes under the Jones-Munger procedure for tax sales unless the notice of sale contains the names of all record owners or the names of all owners appearing on the land tax book. Therefore, it appears necessary in the situation presented by this opinion request that the owner or owners of record of the land in question be determined before a sale for delinquent taxes can be had.

Honorable Walter W. Pierce

The foregoing opinion, which I hereby approve, was prepared by my assistant, Paul McGhee.

Very truly yours,

JOHN M. DALTON
Attorney General