

MUNICIPAL CORPORATIONS:  
TAXES:

Special tax bills against county  
for street improvements.

August 24, 1943

*f/n*



Hon. F. H. Black  
Judge of the County Court  
Pulaski County  
Brownfield, Missouri

Dear Sir:

We are in receipt of your letter of August 16, last,  
requesting an opinion of this office, which letter is as  
follows:

"May I have your official opinion upon the  
following proposition:

"The City of Waynesville, a city of the  
fourth class, and the county seat of  
Pulaski County, propose to pave the street  
abutting on two sides of the court house  
square. They have made demand upon the  
county court for payment of one-half the  
cost of the improvement and indicate that  
unless such is paid by the county court,  
that the City will issue special tax bills  
for said improvement. I presume the City  
relies upon sections 7226 to 7228 R. S.  
Mo. 1939, for their authority to issue such  
special tax bills against the county.

"Has the City authority to issue special  
tax bills against Pulaski County for the  
indicated improvement?"

Section 7226, R. S. Mo. 1939 is as follows:

"All real estate owned by a county and  
situate within the corporate limits of  
any city of the fourth class shall be  
subject to the provisions of all ordi-  
nances of such city which relate to  
the erection and maintenance of hitch-  
ing posts, sidewalks, guttering, curb-  
ing, fences along streets and alleys,

and the paving and macadamizing of streets to the same extent as that of private citizens of such city."

In the case of City of Edina, etc. vs. School Dist. et al., 267 S. W. 112, 1. c. 116, the Supreme Court of Missouri, en banc, held that the real estate of a county in cities of the fourth class is subject to special tax bills for improving streets. In so holding the Court declared the law to be as follows:

"The real estate of a county in cities fourth class is by section 8526, R. S. 1919, expressly made subject to special tax bills for improving streets the same as that of individuals. Section 8527 makes it the duty of the county court after 60 days' notice of the improvement is served on the county clerk to make such improvements and pay for same out of its general fund. By section 8528, if the county court failed to do so, the city could proceed to make such improvement and issue tax bills for the cost thereof, which 'shall be a valid claim' against the county and which the county court shall pay out of its general fund."

Section 7227, R. S. Mo. 1939 is as follows:

"It shall be the duty of the county court whenever any of the improvements of the property set out in section 7226 is required by ordinance, to forthwith make such improvement fronting or abutting any real estate owned by the county and living within the corporate limits of the city, and included in the terms of the ordinance, in compliance with the provisions of such ordinance, and pay for such improvements out of the general fund of the county."

The procedure of the court to make improvements is set out in Section 7228, as follows:

"If the county court shall fail, neglect or refuse to comply with the provisions of any ordinance providing for the improvement of property as herein provided, for a period of sixty days after notice

has been served on the county clerk, of the requirements of the ordinance and the kind and nature of the improvements to be made, the city shall proceed to make such improvements in the same manner as is provided by ordinance for the making of similar improvements by private citizens, and shall issue special tax bills for the cost of all labor and material necessary in making such improvements, and such special tax bills shall be a valid claim against such county, and it shall be the duty of the county court at its next regular meeting after the completion of said improvements to audit, allow and pay out of the general fund of the county the cost of making said improvements or the special tax bills issued therefor."

CONCLUSION

From the plain language of the statutes above quoted, it is the opinion of this department that upon failure of the county to comply with the provision with an ordinance providing for the improvement of property mentioned in said statutes within sixty days after notice, the city has authority to issue special tax bills for such improvements.

Respectfully submitted,

LEO A. POLITTE  
Assistant Attorney General

APPROVED:

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ROY McKITTRICK  
Attorney General

LAP:jc