

TAXATION: County court must procure and maintain on file
the plats referred to in Section 137.195, RSMo
COUNTY COURT: 1949; county court may not supplant such plats
by any other system. County Court may contract
COUNTY ASSESSOR: with the assessor to set up a card system as a
permanent record in the assessor's office.

June 17, 1959



Honorable Haskell Holman
State Auditor
Jefferson City, Missouri

Dear Mr. Holman:

Reference is made to your request for an official opinion,
which request reads as follows:

"In the event the plats required in Section 137.195, R.S. Mo., 1949, to be procured by the county court from the United States land office, become soiled to the extent they are of no value to the assessor, would the county court have authority under the provisions of Section 137.200, R.S. Mo., 1949, or any other statutory provision to employ the assessor and pay compensation therefor from general revenue, to install a card system as a permanent record in the assessor's office to supplant the plats heretofore referred to? The information set out on the cards is the owner of real estate, description, valuation and transfers."

Section 137.195, R.S. Mo. 1949, to which you refer, provides as follows:

"Each county court of this state shall procure from the register of the United States land office and keep on file plats of all townships and parts of townships in their respective counties, showing the county lines on a scale sufficiently large to show the sections and parts of sections, by their legal subdivisions, and all lands subject to taxation at that time, and also all private land claims with the name of the original claimant, the number of the survey and the number of acres."

Honorable Haskell Holman

As relating to the same matter, we invite your attention also to the provisions of Sections 137.200, 137.205, and 137.210, RSMo 1949.

"137.200. In any county where land plats or maps have been lost or destroyed, the county court of such county shall procure others to supply the places of those so lost or destroyed; and where any county court fails to procure such maps or plats at least sixty days before the time for commencing the assessment in any year, it shall be the duty of the assessor of such county to procure them, to be paid for by the county."

"137.205. The assessor shall have free access to all land plats and maps during the time of assessment with a view to ascertain what lands are taxable; and upon the return of the assessor's books to the board of equalization, the said board shall compare the same with the plats and maps of the county; and in all cases where any lands have been omitted by the assessor, they shall be placed in the assessor's books and assessed as other lands are required to be assessed by this chapter."

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

We believe that it is eminently clear from the foregoing statutory provisions that it is the positive duty of the county court to procure and keep on file the plats referred to in order that the assessor and the county board of equalization might have access to the same for the purpose of listing, assessing,

Honorable Haskell Holman

and equalizing the property in the county subject to taxation. Indeed it is made the duty of the assessor to procure said plats and maps at the expense of the county where for any reason the county court fails to procure said plats and maps at least 60 days before the time for commencing the assessment in any year. See Section 137.200, supra.

We do not find any authority, statutory or otherwise, which would relieve the county court or the assessor from their duty to procure and keep on file the referred to plats and maps. Nor do we find any authority which would permit the county court to set up a card system such as you have described in lieu of said plats and maps.

Therefore, in partial answer to your inquiry, we conclude that the county court must procure and maintain on file the plats referred to in Section 137.195 and that the county court is not authorized by this or any other statutory provision to supplant the plats referred to by any other system.

While we are of the opinion that the county court cannot supplant the plats referred to in Section 137.195, we do not mean to say that the county court cannot, in its judgment and discretion, provide the office of the assessor with a permanent record card system such as you describe to facilitate the assessment of property subject to taxation.

This office issued an opinion to S. T. McIntyre, Assessor of Marion County, under date of May 14, 1934, holding that the county court in its discretion could contract with the assessor to index the assessor's book. The opinion further held that under such a contract the assessor would not in performing such a contract be acting in his official capacity but rather in his individual capacity. A copy of said opinion is enclosed herewith. As far as the legal principles involved are concerned, we see no difference between the authority of the county court to contract for indexing the assessor's book as determined in the McIntyre opinion and setting up a card system as a permanent record in the assessor's office. We, therefore, conclude that the various county courts can in the exercise of their discretion contract with the assessor in his individual capacity to set up a card system containing the name of the owner of real estate, the description, valuation, transfers, etc., as a permanent record in the assessor's office.

Honorable Haskell Holman

In further support of the conclusion herein reached, we invite your attention to the provisions of Section 137.395, RSMo 1949, which section authorizes and empowers the county court in counties of the first class by order to prescribe a method or system to facilitate the assessment of property for the purpose of taxation. We believe that a permanent card system such as you describe would be encompassed within the terms of this section relating to counties of the first class.

We further invite your attention to the provisions of Section 137.225, RSMo 1949, which provides in part as follows:

"* * *provided, that in counties having a population of over forty thousand the county court may, in addition to the foregoing provisions for securing a full and accurate assessment of all property therein liable to taxation or in lieu thereof, by order entered of record, adopt for the whole or any designated part of such county any other suitable and efficient means or method to the same end, whether by procuring maps, plats or abstracts of titles of the lands in such county or designated part thereof or otherwise, and may require the assessor, or any other officer, agent or employee of the county to carry out the same, and may provide the means for paying therefor out of the county treasury."

Referring to this provision, the appellate courts of this state have held that it clearly authorizes county courts in counties of more than 40,000 population to "adopt suitable and efficient means or agencies to procure an accurate assessment of all or any portion of taxable property in their counties and pay for such services out of the county treasury." *Hellman vs. St. Louis County*, 302 S.W.2d 911. See also *State ex rel. Tadlock vs. Mooneyham*, 212 Mo. App. 573, 253 S.W. 1098.

Since you do not specify in your opinion request any particular size or classification of county, we have undertaken herein to include all counties in the state regardless of size or classification.

Honorable Haskell Holman

CONCLUSION

It is, therefore, the opinion of this office that the county court must procure and maintain on file the plats referred to in Section 137.195, R. S. Mo. 1949, and the county court is not authorized by this or any other statutory provision to supplant the plats referred to by any other system.

We are further of the opinion that the county court, in order to facilitate the assessment of property for the purpose of taxation, may in its discretion contract with the assessor in his individual capacity to set up a card system containing the name of the owner of real estate, the description, valuation, transfers, and such other information as may be deemed pertinent, as a permanent record in the assessor's office with payments to be made from funds available in general revenue.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Donal D. Guffey.

Very truly yours,

John M. Dalton
Attorney General

DDG:gn
Enclosure