

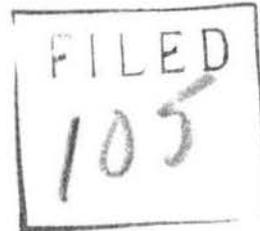
file - original

ASSESSORS: County assessor can verify the assessor's books as
COUNTY ASSESSORS: provided by Section 137.245, R.S.Mo., when such
assessor's books have been prepared by data
processing equipment operators from information
furnished by the assessor.

OPINION NO. 105-69

February 25, 1969

Honorable John Crow
Prosecuting Attorney
of Greene County
Springfield, Missouri 65802



Dear John:

This letter is in response to your request for a legal opinion. Your opinion request presented the following issue:

"Can the county assessor, verify by affidavit, that the tax assessments are correctly set forth in the tax assessor's book if he did not personally place the information in the tax book?"

The applicable statute is Section 137.245, R.S.Mo., which reads in part as follows:

"Assessor to prepare and return assessor's book, verification - clerk to abstract - failure, a misdemeanor.

"1. The assessor, except in St. Louis city, shall make out and return to the county court, on or before the thirty-first day of May in every year, the assessor's book, verified by his affidavit annexed thereto, in the following words:

Honorable John Crow

. being duly sworn, makes oath and says that he has made diligent efforts to ascertain all the taxable property being or situate, on the first day of January last past, in the county of which he is assessor; that, so far as he has been able to ascertain the same, it is correctly set forth in the foregoing book, in the manner and the value thereof stated therein, according to the mode required by law."

It is our understanding that the Green County assessor proposes to use data processing equipment to place the assessment information in the assessor's books. It is our further understanding that all of the property information will be gathered by the assessor and that the actual assessment will be made by the assessor. At this point the information will be supplied to data processing equipment operators and they will perform the mechanical function of sorting the information and transferring it to the tax books with no right to change the information provided by the assessor.

The general rule governing a public official's right to delegate his office's responsibility is stated in 51 Am Jur., Taxation, Section 664, page 626 as follows:

" * * * However, while the assessment of a tax must be the act of the person chosen to act as assessor, it is not required that the officer personally perform every act connected with the assessment and the making of the tax role; many of these acts are of a ministerial or clerical nature, involving no exercise or discretion, and having no relation to any right of the taxpayer, and such as these the assessor may lawfully delegate unless forbidden by statute to do so. Among these are transcribing upon the rolls the various assessments and calculating the amounts of taxes levied thereon; entering in assessment books the list of names and the descriptions of taxable property; listing of property on the assessment roll, etc. * * * "

Honorable John Crow

This general rule has been recognized by the Missouri courts in Parker-Washington Company vs. Cecil, 208 Mo. App. 496, 236 SW 1100; State ex rel Skrainka Construction Company vs. Reber, 226 Mo. 229, 126 SW 397; and Jaicks vs. Merrill, 201 Mo. 91, 98 SW 753.

In State vs. Reber, supra, the court stated:

"An officer to whom a discretion is intrusted by law cannot delegate to another the exercise of that discretion, but after he has himself exercised the discretion he may, under proper conditions, delegate to another the performance of a ministerial act to evidence the result of his own exercise of the discretion."

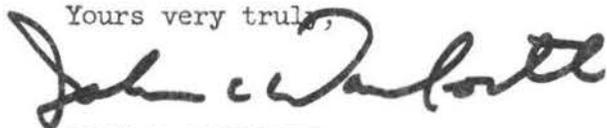
It appears that the acts to be performed by the data processing equipment operators are ministerial in nature and under the Missouri law can be properly delegated. It also seems clear that if the assessor has performed his statutory functions and merely provides the operators with all the information that will be used in compiling the assessor's books that the assessor can verify said books.

CONCLUSION

Therefore, it is the opinion of this office that the county assessor can verify the assessor's books as provided by Section 137.245, R.S.Mo., when such assessor's books have been prepared by data processing equipment operators from information furnished by the assessor.

The foregoing opinion, which I hereby approve, has been prepared by my assistant, Alfred C. Sikes.

Yours very truly,



JOHN C. DANFORTH
Attorney General