

TAXATION: Right to compensation for improvements by certificate holder upon improvements made by certificate holder.

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February 3, 1936.



Honorable Melvin Englehart
Prosecuting Attorney
Madison County
Fredericktown, Missouri

Dear Mr. Englehart:

Acknowledgment is herewith made of your communication of January 24, 1936, requesting an opinion of this office on the following matter:

"If you have prepared an opinion on the meaning of the last provision of the above quoted section, hereinafter set out, or if you have not prepared an opinion on it, please write me your opinion as to its meaning and application.

The above quoted section provides the manner of payment of improvements made and erected on land purchased at a delinquent tax sale and the last provision therein is as follows, to-wit, 'No compensation shall be allowed for improvements made before the expiration of two years from the date of sale for taxes.' Section 9956a, Laws 1933, page 437, provides that no owner may redeem the land sold for taxes, if not redeemed within two years from the time of sale. I do not understand the meaning of the last provision of section 9956d when read in connection with section 9956a. If the last provision of section 9956a is followed there is no compensation at all for improvements made on lands purchased at tax sales. If the purchaser cannot redeem after two years from the date of the sale, why is

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section 9956d written in the statutes, setting out how the owner shall compensate the purchaser at the tax sale, if the owner does not have to pay for improvements that were erected within two years after the date of sale?"

One place in your communication you have referred to Section 9956d. I presume that that should read "9956c", and shall reply to your inquiry on that supposition. Section 9956a provides for the redemption of land from tax sale and provides in part:

"The owner or occupant of any land or lot sold for taxes, or any other persons having an interest therein, may redeem the same at any time during the two years next ensuing, * * *"

However, I direct attention to the provisions of Section 9956b which provides:

"Infants, idiots, insane persons and persons in confinement may redeem any lands belonging to them sold for taxes, within two years after the expiration of such disability, in the same manner as provided in the preceding section for redemption by other persons."

Thus we see that by this section the redemption period in certain cases might be extended materially beyond the ordinary expiration date. It might be ten years or more before the minor becomes of age and two years thereafter would be allowed him within which to redeem the property. During that ten years or so the purchaser at the tax sale might have made valuable and lasting improvements and under the provisions of Section 9956c he would be permitted to obtain payment of the reasonable value of such improvements. It is quite true that this section closes with this sentence:

"No compensation shall be allowed for improvements made before the expiration of two years from the date of sale for taxes.

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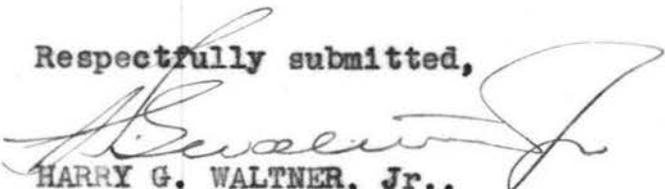
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It is thus apparent that the Legislature did not intend that a tax sale purchaser could obtain possession of the property under Section 9954a at the expiration of one year from the date of the sale and make such valuable and lasting improvements thereon as it would make it impossible for the distressed taxpayer to redeem the land from the sale. It is our view that this is the construction to be placed upon this law and that given such construction it presents a somewhat workable plan.

CONCLUSION.

It is therefore the opinion of this office that the holder of a certificate of purchase cannot obtain payment for valuable and lasting improvements made before the expiration of two years from the date of the sale and that such provision is consistent with Sections 9956a and 9956b.

Respectfully submitted,


HARRY G. WALTNER, Jr.,
Assistant Attorney General

APPROVED:

ROY McKITTRICK
Attorney General

HGW:MM