

TAXATION: Cost of publishing delinquent list to be paid out of County Treasury.

January 29, 1936.

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Honorable Alvin H. Juergensmeyer  
Prosecuting Attorney  
Warren County  
Warrenton, Missouri

Dear Sir:

Acknowledgment is herewith made of your request for an opinion of this office on the following matter:

"The County Collector advertises land for sale under the delinquent tax law. The land does not bring the amount of the taxes the first time advertised and it will be sold again next year. Is the newspaper entitled to its pay when the land is advertised or must the newspaper wait until the land is sold before the advertisement is paid for?

If the newspaper is paid now, does the County Court advance this money for the Collector, or who pays the newspaper?"

The publication of delinquent lists of lands and lots was originally provided for in Section 9952b, page 430, Laws of Missouri 1933, as an integral part of the Jones-Munger Act. By an examination of this section it will be seen that the expense of such printing was to be paid by the purchaser of the land sold and the cost of such printing was to be prorated and taxed as costs of the sale. There was no provision whatsoever for the taxing of these costs against the county or for the county advancing to the newspaper the cost of this publication.

This office in an opinion to the Missouri Democrat, dated August 18, 1933, held that under the provisions of that Section the expense of publication of the list of delinquent lots could not be charged to the county and that the county court had no authority to pay such costs out of the general revenue.

However, the Fifty-eighth General Assembly passed Senate Bill 57, which became operative before it was necessary to publish the list of delinquent lands and lots in the fall of 1935. This act, found at page 402, Laws of Missouri 1935, amended Section 9952b, by striking out the last line of that section and enacting in lieu thereof the following sentence:

"The expense of such printing shall be paid out of the county treasury and shall not exceed the rate fixed in the county printing contract, if any, but in no event to exceed One Dollar for each description, which cost of printing at the rate paid by the county shall be taxed as part of the costs of the sale of any land or lot contained in such list."

The Legislature could have had but two things in mind by making this change. First, to make it unnecessary for the publication to wait for its costs until the taxes had been paid, together with costs, and second, to provide that the cost of such printing be advanced out of the County Treasury, the County receiving reimbursement therefore when and if the costs are collected. The section is silent as to exactly when the newspaper is entitled to receive its pay. However, there should be little question as to this matter. It should receive its compensation a reasonable time after proof of publication is made, or as soon thereafter as the county has funds available under the budget act for the payment of this expense.

#### CONCLUSION.

In view of the foregoing, it is the opinion of this office that the cost of the newspaper publication is to be paid for from the county treasury, out of the general revenues

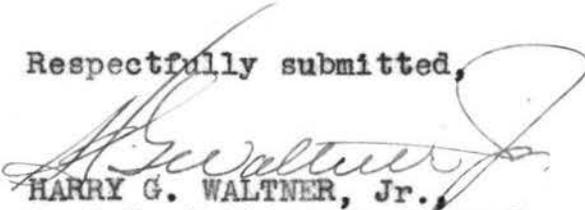
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of the county and that the newspaper is to receive its compensation at a reasonable time after proof of publication is made and the account has been presented to the County Court for approval, provided the county has funds available for the payment of that class of claim.

Respectfully submitted,



HARRY G. WALTNER, Jr.  
Assistant Attorney General

APPROVED:

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JOHN W. HOFFMAN, Jr.,  
(Acting) Attorney General

HGW:MM