

TAXATION: COUNTY COURTS--May correct erroneous description of land.

TAXATION; COUNTY COURTS--May compromise taxes only as provided for in Section 9950 as amended.

August 31, 1936.

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Mr. Thomas A. Mathews
Prosecuting Attorney
St. Francois County
Farmington, Missouri

Dear Sir:

We have your request of August 28, 1936, for an opinion of this office as follows:

"The assessment of property in the name of B. H. Marbury for the years 1933, 1934 and 1935 is described on the assessment book and tax book as follows:

One acre in survey 349 in the City of Farmington, St. Francois County, Missouri.

And because of the inadequate, vague and indefinite description of this property the party owning same refuses to pay the taxes on the property as a result of the assessment made above.

The County Court of this County realizing their position, on the 12th day of their May term of Court, this year, corrected the description, as the certified copy of order hereto attached will show. Mr. Marbury refuses to pay his taxes for the reason above stated and the County Court and Collector of this County are desirous of knowing whether or not they should accept the offer of 50¢ on the dollar in order to compromise and settle the taxes or proceed to advertise and sell the property under the Jones Act, and describing the property as the certified copy of Court will show."

It may be said that the original assessment description of the property to be assessed is inadequate and therefore the assessment is invalid. State ex rel. vs. Lamb, 25 S.W. (2d) 83.

However, Section 9946, Amended Laws 1933, page 424, among other things provides as follows:

"In all cases where any assessor or assessors,****shall have assessed and levied taxes,****on any real estate, according to law, whether the same be delinquent or otherwise, and until the same are paid and collected, with all costs, interests and penalties thereon,****the county court of any county shall have full power to correct any errors which may appear in connection therewith, whether of valuation, subject to the provisions of the Constitution of this state, or of description***** or otherwise****. Any description or designation of property for assessment purposes by which it may be identified or located shall be a sufficient and valid description or designation."

We find that the county court of St. Francois County at the May Term 1936, corrected the description of the tract of land in question, and for the purpose of this opinion we assume that the corrected description is accurate.

As to the right of the county court to compromise these taxes for fifty cents on the dollar, we call your attention to certain provisions of Section 9950, Laws of Missouri 1933, page 427, covering the right of the county court to compromise taxes on real estate:

"Whenever it shall appear to the county court,*****that any tract of land or town lot contained in said 'back tax book' or recorded list of delinquent land and lots in the collector's office is not worth the amount of taxes, interest and cost due thereon,****or that the same would not sell for the amount of such taxes, interest cost, it shall be lawful for the said court *****to compromise said taxes with the owner of said tract or lot,*****."

Mr. Thomas A. Mathews

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The assessor is required to assess all property at its true value. There is a presumption that officers have properly performed their duty. The County Court is without authority to reduce the value on this real estate, or to accept less than the full amount of taxes penalties and interest thereon except in the two instances provided for in Section 9950.

This office is therefore of the opinion that the county properly corrected the description of this land and that the county court is without authority to compromise the taxes thereon except in accordance with Section 9950, Laws of Missouri 1933, page 427.

Respectfully submitted,

FRANKLIN E. REAGAN,
Assistant Attorney General

APPROVED:

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

FER:MM