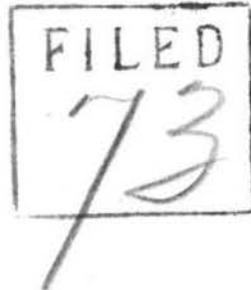


COUNTY SURVEYOR: County surveyor may only charge persons for whom he makes surveys the legal fees specified in Section 11803, R.S.Mo.1929.

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May 28, 1936



Hon. Owan C. Rawlings
Prosecuting Attorney
Saline County
Marshall, Missouri

Dear Mr. Rawlings:

This is to acknowledge your letter as follows:

"Please advise me as to whether the County Surveyor of Saline County, being a county of between 30,000 and 40,000 population, is limited in his charge as compensation to the items set out as fees under section 11803 in the Revised Statutes of Missouri, 1929; or can he legally charge a per diem fee - all of such charges of course, to be paid by the parties who request the private survey."

The office of county surveyor is an elective one. In State ex rel. Koehler v. Bulger 233 S. W. 486, l. c. 487, the Supreme Court of Missouri, in banc, said:

"The county surveyor and his duties and fees are fixed by Chapter 117, R.S. 1919. It is an ancient office coming to us from territorial days. "

Chapter 75, R. S. Mo. 1929 pertains to 'surveyors.' Section 11580, R. S. 1929, reads as follows:

"The county surveyor shall, within ten days, when called upon, survey any tract of land or town lot lying in his county, at the expense of the person demanding the same: Provided, that his legal fees are first tendered, or that he and his deputies are not engaged in executing previous orders of survey."

A reading of said section shows that it is mandatory upon the county surveyor to make surveys 'at the expense of the person demanding the same.'

Section 11803, R. S. 1929, provides for the fees that the county surveyor can charge for his services, and is as follows:

"County surveyors shall be allowed fees for their services as follows: For calculating the quantity of land in each survey, when called upon by any party, the sum of thirty cents for each distance contained in the boundary of said survey.

"For every survey actually made \$1.50.

"And the further sum of one cent for every chain lineal measure above one hundred chains.

"For calculating the quantity of each division made in a tract

of land, town lots excepted, .\$.75	
"For making each plat.40
"For recording a plat and certificate.50
"For every copy of a plat and certificate.50
"For traveling to the place of survey and returning, for every mile.08
"For ascertaining and plant- ing each corner, under article 7, chapter on 'Evidence'.	1.00
"For recording each cer- tificate under article 6, chapter on 'Evidence'	1.00
"For each day's attendance as a witness under article 6, chapter on 'Evidence'. . .	1.50
"For delivering depositions to the recorder under article 6, chapter on 'Evidence'. . .	.35

In State ex rel. Koehler v. Bulger, supra,
the Court said, l. c. 489:

"As said, the salary of the
county surveyor was fixed by
law."

From the above and foregoing, it is our
opinion that the county surveyor may only charge the fees

Hon. Owen C. Rawlings

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listed in Section 11803 and cannot make an extra per diem charge and collect same legally.

Yours very truly,

James L. HornBostel
Assistant Attorney General

APPROVED:

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

JLH:LC