

TAXES: Cost of making resurvey of city property.

August 2, 1939

Mr. Robert A. McIlrath  
Prosecuting Attorney  
St. Francois County  
Farmington, Missouri



Dear Sir:

We have your request of July 26th for an opinion with reference to the authority of the City of Farmington, or the County Court of St. Francois County, to have certain property in the City of Farmington resurveyed and replatted for the purpose of obtaining correct descriptions to be used in the assessment of taxes against such property.

It would appear under Section 9797, R. S. Mo. 1929, that such work within the corporate limits may be done by either the city surveyor, county surveyor, or other competent surveyor selected by the city. The cost of making that survey is specifically by said section taxed against the tracts of land thus surveyed. This is the only authority we find for the payment of such services.

The performance of such services would be by a public official such as the city surveyor or county surveyor, or a competent surveyor specifically appointed for that service. This would bring into operation the rule of law in this state that an officer can recover compensation only when the same is authorized by statute. Williams v. Chariton County, 85 Mo. 645; State ex rel. v. Adams, 172 Mo. 1; Hill v. Butler County, 195 Mo. 511; State ex rel. v. Wofford, 22 S. W. 486, 116 Mo. 220; State ex rel. v. Brown, 146 Mo. 401; Holman v. City of Macon, 175 Mo. App. 398; Sanderson v. Pike County, 195 Mo. 598; Bank v. Refrigerating Co., 236 Mo. 407.

In addition to the above authority, there is the rule, long adhered to in this state, that a public officer is presumed to render his services gratuitously unless

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some specific statutory authorization is found for the payment of such services. King v. Riverland Levee Dist., 279 S. W. 195, 196.

It is, therefore, the opinion of this office that the cost of making such surveys or plats within the City of Farmington must be charged against the land surveyed, and neither the county court nor city council has authority to divert other funds for the payment of such compensation.

Respectfully submitted

FRANKLIN E. REAGAN  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
(Acting) Attorney General

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