

COUNTY COURTS:
ASSESSMENT OF PROPERTY FOR TAXATION:
TAXATION:
CLASS THREE COUNTIES OF OVER 40,000:
ASSESSORS:

Any county having a population over 40,000 is authorized to employ experts to replat and prepare maps and to locate and evaluate real estate in said county for the purpose of furnishing information of value to the county assessor in securing a full and accurate assessment of all property in the county liable to taxation.

See also
Opinion 451-1963
October 4, 1961



Honorable Donald E. Dalton
Prosecuting Attorney
St. Charles County
First National Bank Building
St. Charles, Missouri

Dear Mr. Dalton:

This will acknowledge your recent request for an opinion of this office as follows:

"St. Charles County is a county of the third class having a population of 52,671. The County Court is considering entering into a contract employing a professional firm to re-plat, and prepare maps for certain portions of St. Charles County and to locate and evaluate all real estate in St. Charles County. The real estate valuation would be used by the County Assessor together with all other information which he has available in an examination of assessments and a possible re-assessment of all real estate in St. Charles County. I am requesting an opinion from your office as to whether or not the County Court of St. Charles County is authorized to enter into such a contract.

"I believe that it is common knowledge that St. Charles County has peculiar problems in connection with real estate valuation. St. Charles was the First Capitol of the State and is one of its oldest cities. The fluctuation in real estate values from the time of its early history to the present time has been tremendous. The large, recent population increase has made a great demand for houses and lots and has resulted in increased land values. The report of the County

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Assessor and the Board of Equalization is that it has been impossible for them to keep up with and keep current the assessed valuations of real estate in this County through their ordinary procedures and with their authorized regular personnel. St. Charles County had a population of 29,834 in 1950 and increased to 52,671 in 1960. It has a total area of 561 square miles compared to the 497 square mile area of St. Louis County."

Your letter refers to Section 137.230, RSMo 1959, and the recent case of Hellman v. St. Louis County, 302 S.W. 2d 911. We have concluded that the statute referred to and the cited case clearly authorize the county court of St. Charles County to enter into a contract such as you outlined in your letter.

Section 137.230, RSMo 1959, provides in part as follows:

"* * * In counties having a population of over forty thousand the county court may, in addition to the foregoing provisions for securing a full and accurate assessment of all property therein liable to taxation, or in lieu thereof, by order entered of record, adopt for the whole or any designated part of the county or any other suitable and efficient means or method to the same end, whether by procuring maps, plats or abstracts of titles of the lands in the county or designated part thereof or otherwise, and may require the assessor, or any other officer, agent or employee of the county to carry out the same, and may provide the means for paying therefor out of the county treasury." (Emphasis supplied.)

In State ex rel and to Use of Tadlock v. Mooneyham, 212 Mo. App. 573, 253 S. W. 1098, the Springfield Court of Appeals construed Section 12797, RS 1919, in which substantially the above quoted language was contained. The Court held that such statute constituted an express grant of power to the county court of counties having a population over forty thousand to employ a suitable person to assist in discovering property which had escaped assessment and taxation and to furnish lists of same to the proper officers so that said property could be assessed and taxes thereon collected. Said the Court (253 S.W., 1.c. 1099):

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"* * * The legislature evidently understood that in the larger counties the opportunity for concealing wealth from taxation would be much greater than in the smaller counties, and they evidently intended by the provisions of the statute aforesaid to put it in the power of the county court in those counties to ferret out property that was being withheld from assessment and place it upon the tax books of the county, so that it should bear its proportion of the burdens of taxation."

In *Hellman v. St. Louis County, Mo.*, 302 S.W. 2d 911, the Supreme Court, en banc, sustained the validity of contracts between St. Louis County and two appraisal companies for the appraisal of certain real estate in designated parts of said county and to prepare and deliver to the county assessor certain manuals on procedure, field record cards, land value maps, indexing cards, identifying classification and other detailed information and services. All of such services contracted for were in connection with the ultimate independent assessment of the real estate by the county assessor for purposes of taxation. The court cited Section 137.230 as bearing upon "the precise question here involved" and held, *l.c.* 915:

"It seems clearly to authorize contracts such as are here involved, but, in any event, it definitely amounts to a declaration of public policy that the county courts of counties of more than forty thousand population may adopt suitable and efficient means or agencies to procure an accurate assessment of all or any portion of taxable property in such counties and pay for such services out of the county treasury." (Emphasis supplied.)

As stated in your letter, the proposed contract your county court has in mind contemplates the employment of a professional firm to re-plat and prepare maps for certain portions of the county and to locate and evaluate all real estate in St. Charles County. It is assumed that the expert appraisals would not be binding upon the county assessor but would simply be of aid to such official "in determining the true value of, and thereby more accurately to assess, the taxable property of the county in accordance with his statutory duties."

In all essential respects, the proposed contract is similar to those involved in the *Hellman* case, and we believe that the ruling in that case is decisive of the question here presented, and that such proposed contract is clearly authorized by Section 127.230, RSMo 1959.

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The fact that St. Louis County is a county of the first class operating under a home rule charter does not, in our opinion, militate against the authority of the Hellman case nor the applicability of Section 137.230. It is true that St. Charles County is a county of the third class, but the important fact is not its classification but its population, which in this instance is in excess of forty thousand. It is to be noted that Section 137.230, which is applicable generally to all counties irrespective of classification whose population is in excess of forty thousand, specifically provides that the county court of such county may adopt any suitable and efficient means or method to the end of securing a full and accurate assessment of all property therein liable to taxation.

The statute expressly authorizes the county court to adopt any means which would have for its purpose securing both a full and an accurate assessment. The method adopted may not only be by procuring maps, plats and abstracts of title, but "otherwise." "Otherwise" can mean only such other method as may reasonably be of aid to the assessor to make an accurate as well as a full assessment of all taxable property. Section 137.115, RSMo 1959, in addition to requiring the assessor to make a list of all taxable property, directs him to "assess the property at its true value". An accurate assessment would necessarily be one based on the true value of the property. In our opinion, expert appraisals could well be resorted to by the assessor in aiding him in determining the true value of the property and "thereby more accurately to assess" such property. Hence, a contract employing experts to render such assistance would be a proper and suitable method for ultimately securing an accurate assessment of the taxable property in the county. If the statute should be construed to limit the power of the county court merely to procuring maps and plats and assistance in locating property, no substantial effect would be given to the express statutory intent relating to securing an accurate as well as a full assessment, and the words "or otherwise" would serve no purpose.

The Hellman case specifically ruled that the adoption of the method therein involved (the employment of expert assistance) is "certainly" not contrary to the provisions of Section 137.230, (302 S.W. 2d, 1.c. 916).

The discussion in the Hellman opinion concerning the home rule charter and the ordinances adopted pursuant thereto was necessary therein for the purpose of determining whether the method utilized and the procedure followed in St. Louis County was authorized by the charter as well as by the statute applicable generally. The court was necessarily required to consider whether the home rule charter had made other provisions with respect to

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the means of procuring an accurate assessment than that provided for in the statutes.

The pertinent charter provision of St. Louis County (Article III, Section 22[7]) is no broader in scope and no more specific in authorizing such contracts than Section 137.230. Such charter provision simply authorizes the council by ordinance "to provide for the assessment . . . of all taxes . . . and to pre-scribe a method or system to facilitate the assessment of . . . taxes." Whatever authority the council had to enact the ordinance permitting the employment of experts (other than Section 137.230) must be found within the foregoing charter provision. The method prescribed by the ordinance "to facilitate the assessment" was obviously not spelled out by the charter provision, but came within its intent just as the contract here contemplated is a method within the intent of the statute.

The general law of the State, as pointed out by the court, provides for the county court in its discretion to adopt suitable means of securing a full and accurate assessment and to provide means to pay therefor out of the county treasury, but under the ordinance of St. Louis County only the assessor himself could initiate the employment of experts. It was only upon request of the assessor with the approval of county council that the county supervisor was authorized to enter into such contracts. A home rule charter must provide for the exercise of all the powers and duties of counties and county officers prescribed by the constitution and laws of the state but need not exercise such powers in precisely the same manner as prescribed by such general law. Upon consideration of all of the factors, the court ruled that the means and methods adopted by St. Louis County were reasonable and not contrary to the provisions of the statute and therefore the contracts were properly executed. There is nothing in the court's opinion which reasonably indicates that the county courts of counties having a population of over forty thousand and which do not operate under a home rule charter may not enter into a contract as contemplated by your county court for the purpose of securing a full and accurate assessment of the property therein liable to taxation.

Cases such as King v. Maries County, 297 Mo. 488, 249 S.W. 418, are not in point on this question. That case involved the right of a county court to employ an abstractor to aid in the collection of delinquent taxes. At the time, the statute spelled out a complete system for the collection of such taxes and did not authorize the employment of an additional agency. On the contrary, Section 137.230 emphasizes the legislative intent that statutory provisions specifically spelled out for securing a full and accurate assessment of property were not intended to exclude the adoption of other methods by county courts of counties having a population of over 40,000.

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The fact that bills authorizing the employment of skilled deputies to make expert evaluations failed of passage both in the 70th and 71st General Assemblies in no way constitutes a legislative construction that Section 137.230 does not authorize contracts of the nature proposed. Aside from the fact that such bills provided for the employment of deputies, the important distinction is that they were applicable to all counties irrespective of population. Section 137.230 affects only those counties having a population of more than 40,000. If the unsuccessful attempts to procure passage of House Bill 254 (71st Gen. Ass.) and House Bill 82 (70th Gen. Ass.) are of relevance at all, they would indicate at best an attempt to extend to county courts of counties having a population less than 40,000 the authority already vested in larger counties.

Inasmuch as Section 137.230, RSMo, clearly authorizes such contracts to be executed by county courts of all counties having a population of over forty thousand, as held by the Hellman case, it is our opinion that the fact that your county is a county of the third class has no bearing upon the question. We do not hold that the statute has any application to any counties of the third class other than those having a population of over forty thousand.

CONCLUSION

It is the opinion of this office that the County Court of St. Charles County, a county having a population over forty thousand, is authorized to employ experts to re-plat and prepare maps and to locate and evaluate real estate in St. Charles County for the purpose of furnishing information of value to the county assessor in securing a full and accurate assessment of all property in the county liable to taxation.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Joseph Nessenfeld.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

JN:BJ