

Opinion # 201

Honorable Clifford A. Falzone
Prosecuting Attorney of Randolph County
220 1/2 West Reed Street
Moberly, Missouri 65270

Dear Mr. Falzone:

This opinion is in response to the following questions you asked concerning the County Assessor of Randolph County:

1. Must the county assessor, in a third class county, not under township organization file the assessment lists, returned by the tax payers, with the county clerk?

2. Can the county clerk refuse to certify to the county treasurer and the Director of Revenue the amount due the assessor for the current twelve month period until the assessor files the assessment lists with the clerk?

3. Can the county assessor correct an error he made on the real estate book, after the book has been returned to the county court?

4. Can the county collector alter or change the real estate tax book?

First, the county assessor must file the assessment lists with the county clerk. Section 137.155, RSMo 1959, provides each individual list shall be signed with an oath and the list and oath shall be filed by the assessor in the office of the county clerk, who shall preserve and keep them. This statute was derived from Section 9759, RSMo 1929, which is discussed in enclosed Attorney General's Opinion No. 43, issued to Mr. S. R. Hunter, Assessor of New Madrid County, on March 3, 1939.

Second, the county clerk is not obliged to certify to the county treasurer and the Director of Revenue the amount due the assessor until the assessor files the assessment lists with the clerk. The county assessor has a statutory duty to return the assessor's book to the county court on or before the 31st day of May in every year, Section 137.245, RSMo 1959, and to file the list

Honorable Clifford A. Falzone

and oath in the office of the county clerk, after he has completed the assessor's book. Section 137.155, RSMo 1959. The county clerk has a statutory duty to certify to the treasurer of his county and to the Director of Revenue the amount due the assessor of his county for the current twelve month period, not later than June 15. Section 53.147, RSMo Supp. 1967. The county assessor in class three counties is paid, "sixty^{five} cents per list, and each county assessor shall be allowed a fee of eight cents per entry for making real estate and tangible personal assessment books." Section 53.130, RSMo 1959. Therefore, it is reasonable for the county clerk to insist upon the return of the lists before certifying the amount due the assessor. The general rule in regard to the compensation of a public official is stated in *Nodaway County v. Kidder*, 129 S. W. 2d 857, 860, as follows:

The general rule is that the rendition of services by a public officer is deemed to be gratuitous, unless a compensation therefor is provided by statute. If the statute provides compensation in a particular mode or manner, then the officer is confined to that manner and is entitled to no other or further compensation or to any different mode of securing same. Such statutes, too, must be strictly construed as against the officer."

Third, the county assessor may not correct an error he made on the real estate book, after the book has been returned to the county court. The assessor must make out the assessor's book, and return it to the county court with the oath that, so far as he has been able to ascertain, all taxable property in the county is correctly set forth and the value stated. Section 137.245 (1), RSMo 1959. After he has done this, his jurisdiction has terminated. This question is discussed in Attorney General's Opinion No. 15, issued to the Honorable John R. Caslavka on September 6, 1955, concerning the right of a township assessor to correct errors on his book after it has been turned over to the county clerk. The reasoning is equally applicable to county assessors. This reasoning is found, also, in Attorney General's Opinion No. 70, issued to the Honorable Elmer Peal on January 31, 1953, which holds that the county assessor may not add lists to the assessor's book after his book has been turned over to the county clerk.

Fourth, the county collector may not alter or change the tax books, or reduce an assessment. The collector has no authority to change the tax books, and the Missouri cases have held that he is prohibited from doing so. Attorney General's Opinion No. 10, issued to the Honorable Ted A. Bollinger, November 9, 1949.

If any change in the tax book is ordered by the county court, under Section 137.270, RSMo 1959, the county clerk is authorized

to correct the tax book, not the county collector. Section 137.260 RSMo 1959. It should be noted that the county court's power to take action is more limited than that of the county board of equalization. The county court may not change the valuation placed on property by the assessor or the board of equalization. Section 137.270, RSMo 1959, construed in Attorney General's Opinion No. 13, issued to the Honorable Hilary A. Bush on August 12, 1946.

It is our view that:

1. The county assessor, in a third class county, must file assessment lists with the county clerk.
2. The county clerk can refuse to certify to the county treasurer and the Director of Revenue the amount due the assessor for the current twelve month period until the assessor files the assessment lists with the clerk.
3. The county assessor cannot correct an error he made on the real estate book, after the book has been returned to the county court.
4. The county collector cannot alter or change the real estate tax book.

Very truly yours,

JOHN C. DANFORTH
Attorney General

Enclosure: No. 43, 3-3-39, Hunter
No. 10, 11-9-49, Bollinger
No. 15, 9-6-55, Caslavka
No. 70, 1-31-53, Peal
No. 13, 8-12-46, Bush