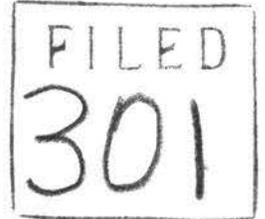


COUNTY ASSESSOR:  
COUNTY COLLECTOR:  
TAX ASSESSMENT:  
TAX COLLECTION:

When more than one person claims ownership of a tract of land and insists on paying the taxes due on the particular tract of land; 1. The assessor should record the names of all claimants in the ownership column of the tax books, and,

2. The collector should receive and issue receipts for all amounts tendered by claimants as payment of the amount due on the particular tract of land.

OPINION NO. 301



July 30, 1968

Honorable Frank Conley  
Prosecuting Attorney  
Boone County  
Columbia, Missouri 65201

Dear Mr. Conley:

This is in response to your request for an opinion which was stated as follows:

" . . . a tract of real estate is being claimed by two different people and at the present time the property is on the tax rolls for one of these people and they are paying the taxes on it. The other person claiming title to said real estate wishes to pay the taxes and the assessor and collector are in the position of not wishing to decide who is the rightful owner. It also appears that both alleged owners have some type of warranty deed conveying to them interest in said real estate.

Can the assessor extend the tax books for real estate listing both individuals who claim ownership and can the collector accept taxes from both individuals?"

The duties of the assessor are found in Chapter 137 Revised Statutes of Missouri. Section 137.115 provides that the assessor shall make a list of all real and tangible personal property in his county and assess the same at its true value in money. Section 137.-215 provides that the owner's name if known shall be placed in the land list and real estate book respectively.

Honorable Frank Conley

The county assessor clearly does not have the judicial authority to make a determination as to ownership of land. Although Missouri courts have not ruled on this specific issue, it has been the subject of litigation in other jurisdictions, as stated in Esso Standard Oil Company v. Jordan (La. 1956), 92 So. 2d 377 at 381:

"Further, the law does not demand, as a condition to a valid assessment, that an assessor must search beyond the official records to ascertain who might or might not claim to own or to have an interest in a given parcel of land; nor is an assessor called upon to be the judge as to the holder of a superior title as between conflicting claimants. . . ."

See also Dillard v. Alexander (Ala.), 168 So. 2d 233 and State ex rel. Matson v. Laurendine (Ala.), 74 So. 370.

Since the assessor is not authorized to determine who has superior title between adverse claimants, he is not at liberty to select one of the claimants to be listed as owner of the property in the tax books. If both claimants insist that they should be listed on the tax books, the assessor should place both of their names in the ownership column. The correct name of the owner of real estate is only a matter of convenience, and is not necessary to the validity of the assessment, which is made against the land itself rather than its owner. State v. Gomer (Mo. 1936), 101 S.W. 2d 57, 63. Section 137.170.

In passing upon the collector's duty in the collection of taxes, the Missouri Supreme Court in Mathews v. The City of Kansas, 80 Mo. 231, 236 stated:

". . . . The assessment was made on the land itself by its numbers, regardless of who was its owner. It was not the duty of the collector to look up the owner or apply to him for the taxes. The tax by law became due and payable at certain prescribed periods, and it was the duty of the owner to go to the collector, or send someone, and pay this tax assessed on the land as such. So the collector in his testimony but stated a legal truth in saying that he had no concern as to who was the owner of a given lot or tract of land. He was receiving the tax imposed on the given lot as such." (emphasis added)

Honorable Frank Conley

Since the duty of the collector is merely to collect the amount due with regard to a particular tract of land, it makes no difference from whom he receives the payment so long as the payor intends that the payment be applied to the tax due on the land in question. If more than one claimant insists that he be allowed to pay the taxes on the land, the collector should take their money and give each of them a receipt. This should be done since the collector has no more authority than the assessor to determine superior title between adverse claimants. If the collector were to accept payment tendered by one claimant and not the other, he would be arbitrarily giving one the benefit of a tax receipt as evidence of ownership.

CONCLUSION

Therefore, it is the opinion of this office that when more than one person claims ownership of a tract of land and insists on paying the taxes due on the particular tract of land;

1. The assessor should record the names of all claimants in the ownership column of the tax books, and
2. The collector should receive and issue receipts for all amounts tendered by claimants as payment of the amount due on the particular tract of land.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Richard E. Dorr.

Yours very truly,



NORMAN H. ANDERSON  
Attorney General