

Opinion No. 55-6180

June 2, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: C. C. Chase, Jr., District Attorney, Third Judicial District, Las Cruces, New Mexico

We are in receipt of your letter of May 26, 1955, in regard to the payment and over-assessment by a taxpayer of his property. You state that the taxpayer assessed his property on the completed assessment status and not as an incomplete house, wherein he would only be required to pay approximately one-third of the full tax assessment.

§ 72-4-6, N.M.S.A., 1953 Compilation, among other things, provides that "if the Treasurer shall discover any errors of other kinds in said assessment roll by which any injustice would be done to any taxpayer, it shall be his duty to report the same to the District Attorney." The taxpayer claims that this provides a method of correction for his error.

The Supreme Court of this State held, in the case of *Morris vs. State ex rel State Tax Commission*, 41 N.M. 385, 69 P. 2d 924, that this statute was designed for the correction of errors in assessment and does not give the Court authority to cancel or hold assessments invalid on equitable grounds or **to reassess property**. This situation, as outlined by you, appears to this office to be an attempt to reassess property.

Further, § 72-2-39, N.M.S.A., provides that the Board of Equalization shall be available to all taxpayers. Our Supreme Court held, in the case of *In Re Blatt*, 41 N.M. 269, 67 P. 2d 293, that if a taxpayer fails to appeal to the County Board of Equalization and then the State Tax Commission, the valuation placed by the assessor becomes final. This appears to us to be an administrative method of correcting any error made in the assessment and provides a method for reassessment. In the event the taxpayer has failed to follow the administrative route, we do not believe that the correction is available to him.

It is our opinion that unless the taxpayer has exhausted his administrative remedies, as provided in §§ 72-2-38 -- 72-2-39, that he is foreclosed from having his property reassessed in any manner whatsoever.

We sincerely hope that this answers your inquiry.

By Fred M. Standley

Assistant Attorney General