

Opinion No. 56-6432

April 27, 1956

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Abner Schreiber, Assistant District Attorney, First Judicial District, Los Alamos, New Mexico

On April 20, 1956, you addressed an inquiry to this office concerning the duties of the county tax assessor and the county board of equalization in the assessment and equalization of ad valorem taxes.

§ 72-2-37, N.M.S.A., 1953, provides that the county board of equalization on the first Monday of April shall have the power to equalize the property contained in the tax schedules or lists submitted to them by the county tax assessor.

§ 72-2-30, N.M.S.A., 1953, and § 72-2-10.2(p.s.) set out the duties of the tax assessor. A reading of these three sections together indicates that the county tax assessor must fix the valuation of all property in the county for the purposes of taxation. That valuation, as shown on the tax schedules, or lists, must then be submitted to the county board of equalization, which board has the duty to review and examine said tax schedules or lists and the valuation placed thereon, and to equalize that valuation, if necessary. Thus, the duty is the assessor's in the first instance to place the valuation on the property.

It is then the duty of the county board of equalization, as a board of review, to review and examine the tax schedules or lists delivered to the board of equalization by the county assessor. In the event the county board of equalization discovers that a valuation of 20% of the full actual value thereof is placed upon one piece of property and 80% on another piece of property similarly situated and of similar class or kind, the county board of equalization has the power to increase, diminish, or otherwise alter and correct the assessment or valuation by revising and revaluing either or both pieces of property for the purpose of equalization. This would be a review and examination of two individual assessments with a view to the correction of errors or inequalities as between them.

The county board of equalization can also examine all of the assessments of the county as a whole with a view to determining whether they are relatively equal and at a point which is determined to be necessary for the income of the county and in conformity with the rules, regulations or standards of assessment promulgated by the state board of equalization according to § 72-6-12.1, N.M.S.A., 1953, (p.s.).

In the event that the county tax assessor has determined and fixed the valuation in conformity with the rules, regulations or policy promulgated by the state board of equalization, insofar as equalization within the entire county is concerned, then it would

seem that the county board of equalization would have no task, insofar as the review and revision of the entire county assessments as a whole are concerned.

In the event the county tax assessor has placed a valuation not in conformity with the rules, regulations or standards of assessment promulgated or set by the state board of equalization, it is then the duty of the county board of equalization to revise and revalue the property by increasing, diminishing, or otherwise altering the assessment as a whole in conformity with the standards of assessment of the state board of equalization.

Therefore, it is the opinion of this office that the duty of fixing the valuation of property for ad valorem tax purposes is primarily that of the assessor. In addition, as a review board of the action of the county assessor, it is the further duty of the county board of equalization to add any property omitted from the schedule of the assessor, revise and revalue the property, and for the purposes of equalizing the same, to increase, diminish or otherwise alter and correct any assessment or valuation, except where such valuation is fixed by law or by the State Tax Commission.

We sincerely hope this answers your inquiry.

By Fred M. Standley

Assistant Attorney General