

**FILE**

Subject

*J. J. Miller*  
*Gaselle Real Property*

Copy to



STATE OF KANSAS

*Office of the Attorney General*

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER  
Attorney General

August 1, 1974

Opinion No. 74-254

Mr. J. David Farris  
Atchison County Attorney  
County Courthouse  
Atchison, Kansas 66002

RE: Delinquent real property taxes--collection procedures.

Dear Mr. Farris:

You have requested an opinion from this office relative to certain procedures for the collection of delinquent real property taxes. First, you inquire whether a property owner may selectively pay delinquent taxes on certain lots of real estate where such lots represent an integral part of a much larger parcel of land which is taxed in toto et pars continetur. The question posed presents a property owner who desires to convey a portion of a tract of land. And, in order for him to complete the conveyance he wants to redeem only a certain number of lots by paying the "proportionate share" of the taxes delinquent on the entire tract which these lots would represent. It is the opinion of this office that taxpayer may not avail himself of this procedure.

Once taxes for a particular piece of real property in this state become delinquent the valuation and assessment for such property becomes final and is generally no longer subject to review or protest (see, Chapter 434, Laws of 1974). The real estate in question was valued and assessed as a total piece of real property. Taxpayer's request for permission to pay only a proportionate share of the delinquent taxes would require in essence a re-evaluation of the property,

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i.e., breaking down and assigning a specific value to each lot as compared to the whole. We find no statutory authority for either the county clerk or assessor to so proceed. Accordingly, property owner in order to redeem that portion of the larger tract must pay the delinquent taxes upon the entire parcel as initially valued and assessed.

Second, you inquire whether a property owner may redeem property by paying only those delinquent taxes which represent the county's assessment while at the same time withholding payment for the city's special assessments (e.g., paving, weed cutting, etc.).

K.S.A. 79-1804 in pertinent part provides:

"All taxes shall be due on the first day of November of each year. A lien for all taxes shall attach to the real property subject to the same on the first day of November in the year in which such tax is levied, and such lien shall continue until such taxes, and penalty, charges and interest which may have accrued thereon, shall be paid by the owner of the property or other person liable to pay the same . . . .

"The county clerk shall immediately compute such taxes and certify the same to the county treasurer who shall proceed to collect such taxes as provided by law . . . ." [Emphasis added.]

Without question the legislative intent manifested by the above statute clearly mandates that all taxes upon real property create a lien upon such property until paid. The logical corollary that follows is that all taxes must be paid in order to eliminate such a lien. Further, the legislature does not so categorize taxes upon real estate for the purposes of this statute by specifically referring to either a city's special assessments or a county's assessments. There being no such distinction drawn, it is the opinion of this office that a property owner may not wholly redeem his real property upon which delinquent taxes remain unpaid until he fully pays such taxes and the accompanying penalty, charges and interest which may have accrued.

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If we may be of further assistance to you in this matter  
please feel at liberty to contact us.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Vern Miller".

VERN MILLER  
Attorney General

VM:JPS:bw