



**THE ATTORNEY GENERAL
OF TEXAS**

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

AUSTIN, TEXAS 78711

April 17, 1969

Honorable Robert S. Calvert
Comptroller of Public Accounts
State Capitol Building
Austin, Texas

Opinion No. M-376

Re: Effect of the order of
the Commissioners' Court
of Hardin County entered
on March 24, 1969, on
valuations on the county
ad valorem tax rolls
which had been finally
approved by the Board
of Equalization on
January 22, 1969.

Dear Mr. Calvert:

You ask our opinion on the following inquiry:

"Please advise me whether the hereinafter mentioned order of the Commissioners Court of Hardin County entered on March 24, 1969, changes the valuations shown on the tax rolls of that county.

"The facts are as follows: On January 22, 1969, the Commissioners Court finally approved all the ad valorem tax rolls for the county for the year 1968 and delivered them to the county tax collector for him to use in collecting the taxes shown thereon. The tax collector has been receiving and receipting for the taxes shown on these rolls and has remitted to me the State's portion of his collections as shown by the rolls.

"On March 24, 1969, the Commissioners Court of Hardin County entered the following order:

"Upon the motion of Commissioner Caraway and a second by Commissioner Burch and by a three to two vote of the Court, do hereby settle the dispute

with the taxpayers at 27% and penalty & interest, to correct the tax rolls to reflect the settlement figure. Any taxpayer who dates his check by the 31st of March, 1969, will get receipt for same at this rate. The Court voting as follows:

County Judge Lack voting nay
Commissioner Caraway voting aye
Commissioner Barrington voting nay
Commissioner Means voting aye
Commissioner Burch voting aye."

"My question to you is, what effect, if any, does this order have upon valuations shown on the tax rolls?"

Our opinion is that the order of the Commissioners' Court entered on March 24, 1969, has no effect upon the valuations shown on the tax rolls of the county, and that as to those valuations, such order is void and of no effect whatever.

Our State Supreme Court has, repeatedly and consistently, held that the decisions of Boards of Equalization in the matter of valuations are quasi-judicial in nature, and, in the absence of fraud or illegality, that their decisions are not subject to being set aside. State v. Houser, 138 Tex. 1928, 156 S.W.2d 968, 970 (1941); Victory v. State, 138 Tex. 285, 158 S.W.2d 760, 766 (1942). Their orders are res adjudicata. State v. Couts' Estate, 149 S.W. 281 (Tex.Civ.App. 1912, no writ).

In the case of State v. Mallet Land & Cattle Co., 126 Tex. 392, 88 S.W.2d 471, 472 (1935), the Court said,

". . . The rule has been repeatedly announced that, in the absence of fraud or illegality, the action of a board of equalization upon a particular assessment is final; and, furthermore, that such valuation will not be set aside merely upon a showing that the same is in fact excessive. If the Board fairly and honestly endeavors to fix a fair and just valuation for taxing purposes,

a mistake on its part, under such circumstances, is not subject to review by the Court. . . ."

See also State v. Chicago, R. I. & G. Ry. Co., 263 S.W. 249, 251 (Tex.Comm.App. 1924).

In Rowan Drilling Co. v. Sheppard, 126 Tex. 276, 87 S.W.2d 706 (1935), the Court said,

"When we read the various tax provisions of our Constitution singly, and in the light of each other, we are convinced that by necessary implication, if not by direct language, it prohibits more than one valuation of property for ad valorem tax purposes for the same tax year. In this connection we call attention to the fact that the various tax provisions of our Constitution use the word "valuation" in the singular. Also a holding that more than one valuation can be provided by law for the same tax year would bring about impossible situations in regard to many tax matters. In this connection we call attention to the fact that section 52 of article 3, of our Constitution permits bonds to be issued by any county, any political subdivision of a county, any number of adjoining counties, or any political subdivision of the state, or any defined district now or hereafter to be described and defined within the state of Texas, etc., for certain purposes in any amount not to exceed one-fourth of the assessed valuation of the real property in such district or territory. It is clear to us that this provision of the Constitution demonstrates a direct constitutional intent not to allow more than one valuation. It undoubtedly demonstrates a constitutional implication not to do so. . . ." (at p. 708).

Article 7253, Vernon's Civil Statutes, reads as follows,

"When any tax collector shall have received the assessment rolls or books of the county, he shall receipt to the commissioners court for the same; and said rolls or books shall be full and sufficient authority for said collector to receive and collect the taxes therein levied."

Further, Article 7254 of these statutes, in its relevant portion, reads as follows,

"The tax collector shall be the receiver and collector of all taxes assessed upon the tax list in his county, whether assessed for the state or county, school, poor house or other purposes; and he shall proceed to collect the same according to law, . . ."

The Tax Collector has been regularly receiving and receipting for the taxes shown on the tax rolls, as you have stated, since about January 29, 1969. Both he and all persons who have paid their taxes have relied upon these rolls and acted pursuant to them. In this respect the case of South Taylor County Independent School Dist. v. Winters Independent School Dist., 151 Tex. 330, 249 S.W.2d 1010, 1012 (1952) is relevant. The opinion of the Attorney General Number 0-930 (1939) is also relevant and in accord with our views.

This opinion does not purport to deny the general authority of Commissioners' Courts to declare certain assessments invalid pursuant to Articles 7346 and 7347, Vernon's Civil Statutes. This opinion is founded strictly upon the particular facts stated in your opinion request and upon the particular order of the Commissioners' Court here in question.

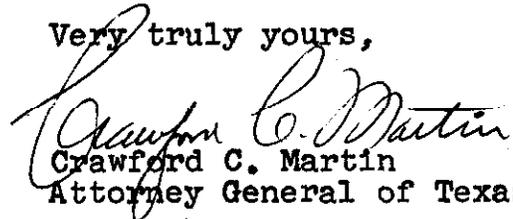
SUMMARY

The order of the Commissioners' Court of Hardin County, Texas, entered on March 24, 1969, wherein it attempts to change the valuations shown on the

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tax rolls of the county which had been finally approved on January 22, 1969 by the Court, has no effect upon the valuations shown on those tax rolls.

Very truly yours,


Crawford C. Martin
Attorney General of Texas

Prepared by W. E. Allen
Assistant Attorney General

APPROVED:
OPINION COMMITTEE

Kerns B. Taylor, Chairman
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Staff Legal Assistant

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