

the southerly boundary produced of said Lot 33, and containing twenty-four thousand one hundred (24,100) square feet, more or less.

Upon examination of this lease, which is executed by you under your general authority as successor to the power, authority and duties of the Board of Public Works and under the more special authority conferred by an Act of the 79th General Assembly enacted June 7, 1911, 102 O. L., 293, I find that the lease has been properly executed by you in your official capacity above stated and by The Pickaway Grain Company, acting by the hand of the President of said company pursuant to the authority of a resolution duly adopted by the Board of Directors of this company under date of September 3, 1937. I further find upon examination of this lease that the terms and provisions thereof and the conditions and restrictions therein contained are in conformity with said Act and with other statutory provisions relating to leases of this kind. I am, accordingly, approving this lease, as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith enclosed.

Respectfully,

HERBERT S. DUFFY,

*Attorney General.*

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1522.

MISTAKE IN LISTING LOTS ON TAX DUPLICATE—AUDITOR MAY CORRECT, WHEN—CLERICAL ERROR.

*SYLLABUS:*

*Where, in a particular case, a mistake has been made in the listing of acreage as lots on the tax duplicate, the county auditor is authorized to correct the description of such lands upon the tax duplicate as per the authority contained in Sections 2588 and 5571 of the General Code of Ohio, when he is satisfied that such mistake was a clerical error.*

COLUMBUS, OHIO, November 23, 1937.

HON. J. EWING SMITH, *Prosecuting Attorney, Bellefontaine, Ohio.*

DEAR SIR: This will acknowledge receipt of your communication of recent date, which reads as follows:

"In Prater's Allotment to the Village of Russells Point, Logan County, Ohio, recorded January 12, 1912, there were included certain lands, title to which was not vested in Mr. Prater at the time the Allotment was made. The owners of these lands did not join in the dedication of the recorded plat of the Allotment or consent to it in any way, but their lands are now listed by the county auditor for taxation purposes as lots, when they should be shown as acreage, and are erroneously shown on the appraisement maps.

I will appreciate your opinion as to whether the county auditor may change the particular property wrongfully allotted from lots, as it now appears on his tax duplicate, to acreage, upon certificate of the Prosecuting Attorney and County Engineer as to the identity of the lands and the error in the original allotment."

Section 2588, General Code, provides as follows:

"From time to time the county auditor shall correct all clerical errors which he discovers in the tax lists and duplicates either in the name of the person charged with taxes or assessments, the description of lands or other property, the valuation or assessment thereof or when property exempt from taxation has been charged with tax, or in the amount of such taxes or assessment, and shall correct the valuations or assessments on the tax lists and duplicates agreeably to amended, supplementary or final assessment certificates issued pursuant to law. If the correction is made after a duplicate is delivered to the treasurer, it shall be made on the margin of such list and duplicate without changing any name, description or figure in the duplicate as delivered, or in the original tax list, which shall always correspond exactly with each other."

Section 5571, General Code, provides:

"A county auditor, from time to time, shall correct any clerical errors which he may discover in the name of the owner, in the valuation, description, or quantity of any tract or lot contained in the list of real property in his county."

A review of the facts stated in your communication shows that the owners of the lands which are now listed on the tax duplicate as

lots, never joined in the dedication of the recorded plat of the allotment in question, nor did they ever consent to the listing of their lands as lots, for taxation purposes, by the county auditor. It therefore clearly appears that there was no authority on the part of the county auditor to list said lands as lots at any time, either by January 12, 1912, or since said date.

You do not state in your letter as to whether or not any streets or alleys dedicated to the public use are involved in this matter, so I am taking it for granted in considering your communication, that there are no public streets or alleys dedicated to public use involved.

A review of Section 2588, *supra*, shows that the county auditor is given authority to correct all clerical errors which he discovers in the tax list and duplicate, and that this includes, "the description of lands or other property."

Further authority of the county auditor in the correction of any clerical errors which he discovers in the description of any tract or lot contained in the list of real property in his county is contained in Section 5571, *supra*.

In your letter you refer to a certificate of the prosecuting attorney and county engineer being furnished to the county auditor relative to the identity of the lands and the error in the original allotment. Insofar as I can find, the authority for making this correction on the tax list and duplicate rests entirely with the county auditor. The prosecuting attorney or the county engineer have no authority to issue any certificate in this matter which will be binding on the county auditor in any way.

Therefore, in specific answer to your question it is my opinion that where, in a particular case, a mistake has been made in the listing of acreage as lots on the tax duplicate, the county auditor is authorized to correct the description of such lands upon the tax duplicate as per the authority contained in Sections 2588 and 5571, of the General Code of Ohio, when he is satisfied that such mistake was a clerical error.

Respectfully,

HERBERT S. DUFFY,

*Attorney General.*