

**County Commissioners, Powers of. Town Lots, Assessment of  
as Acreage.**

Where a piece of land has been regularly platted for addition to a townsite, the plat approved by the council and duly recorded, the lots must be assessed as town lots, and the county commissioners have no authority to order or direct that they be assessed in any other manner.

Helena, Montana, March 28th, 1906.

Hon. H. S. Green, County Attorney, Great Falls, Montana.

Dear Sir:—Your letter of the 26th inst. requesting opinion of this office received. From your letter it appears that the facts are as follows:

“A piece of land had been platted regularly and had once been placed on the market, and, since that time the object of the parties in platting the land had been abandoned, and they therefore desired to have it reduced to acreage.”

The question submitted being as follows:

"Has the board of county commissioners power, or authority at the request of the owner of such platted addition, or the lots or parcels thereof, to vacate the same, or to declare such lots as acreage property for the purpose of assessment?"

From the statement of facts in your letter, it appears that this addition has been regularly platted, the plat accepted by the city council and duly recorded with the county clerk.

Such being the case, the lots, streets and alleys of this addition come under the jurisdiction of the town or city council, and the only authority we find in the statute authorizing the discontinuance of a street or alley in a city or town, is that given by Sec. 5030 of the Political Code to the council of such city or town.

Sec. 3724 of the Political Code, among other things, expressly provides that the county assessor must specify in separate columns "city and town lots, and number of lot and block, according to the system of numbering in such city or town, and improvements thereon.

When an addition to a city or town has been regularly platted, accepted by the council, and recorded in the office of the county clerk, such addition becomes a part of such city or town.

Secs. 3780 to 3790, defining the duties of the county board of equalization, nowhere give such board authority to change the description of property that has once been surveyed and platted into town lots, nor do we find any authority vested in the board of county commissioners to vacate duly platted additions to cities or towns, or to change the description of the land so platted for the purpose of assessing the same.

It is well settled that a "board of commissioners has no power other than is derivable expressly or by necessary implication from the provisions of the statute defining their powers."

State v. Coad, 23 Mont. 137.

You are, therefore, advised that the board of county commissioners has no authority to order or direct that this property should be assessed in any other manner or under any other description than that of city or town lots as described in the plat on file.

Very truly yours,

ALBERT J. GALEN,

Attorney General.