

improvement lighting system, improvements should be considered in the value of the lands.

Section 4601.1, R. C. M. 1935, provides:

“ * * * The cost of said service to said rural improvement district may be apportioned among the various tracts of land within said improvement district in proportion to the assessed value of said lands as determined by the said board of county commissioners, and before the first Monday of September of each year, the board of county commissioners shall pass, and finally adopt, a resolution levying and assessing all the property within the district, an amount equal to the whole cost of maintaining said lighting system, and the same shall be proportioned against the several tracts of land in said district as provided herein. * * * ”

The theory on which special assessments are levied on property for local improvements is that the property assessed has been specially benefitted by the improvement and that those whose property is thus enhanced, and who have received the benefit of the improvement, should pay the cost. (44 C. J. 483, Section 2808.)

While Section 2002.2 requires that the assessor, in valuing and assessing real estate, shall also value and assess all buildings, structures and other improvements, such improvements are considered a part of the land and the total represents the assessed value of the land. This procedure in making the assessment is no doubt for the purpose of preventing such improvements from escaping taxation.

Certainly on the theory of benefits derived, all of the property is enhanced. This would be especially true in case of a lighting system, which would be of peculiar benefit to dwellings and other buildings. Such lighting system would be of potential value only so far as unimproved property is concerned. It is my opinion therefore, in the absence of express exemption, that the Legislature intended that buildings and other improvements should be considered as a part of the land in determining the assessed value. (61 C. J. 645, Section 795.) It is of interest to note that the area of tract, or frontage of

Opinion No. 84.

Improvement Districts—Rural Improvement Lighting System.

HELD: In figuring the assessed value of lands for a rural improvement lighting system, the value includes the buildings and improvements on the land.

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Mr. P. R. Heily
County Attorney
Columbus, Montana

Dear Mr. Heily:

You have requested my opinion as to whether, in assessing lands for a rural

tract, as a basis for assessment, is used in case of city improvements. See Section 5238, R. C. M. 1935. The Legislature, however, saw fit to apply a different basis for assessment in case of rural improvements in the nature of a lighting system, as provided by said Section 4601.1.