

Opinion No. 270.**Taxation—Lands—Assessments—
Segregation of Unplatted Strip.**

HELD: In the absence of statutory authority the owner of lands within the limits of a city may not have an unplatted strip assessed for street improvement, segregated and separately assessed so as to permit payment of the tax on the balance without payment of the tax on such unplatted strip.

December 9, 1940.

Mr. Bert W. Kronmiller
County Attorney
Hardin, Montana

Dear Mr. Kronmiller:

You have submitted the following:

"A taxpayer of Big Horn County owns a tract of land lying within the corporate limits of the City of Hardin, Montana, which is approximately one-half mile long. This land is vacant, and running along the south boundary of said tract of land is a street of the City of Hardin, which is commonly known as Eighth Street. Recently the City of Hardin paved Eighth Street and made an improvement district which includes the lands lying on each side of Eighth Street, which have been assessed for the payment of said pavement improvement. Under the provisions of the improvement district, which was created by the City of Hardin, sixty-five feet of the lands belonging to said taxpayer lying along Eighth Street have been assessed for said improvements under said improvement district. The taxpayer requested the County Treasurer of Big Horn County to segregate all of the lands lying outside of the improvement district, and permit him to pay the taxes upon these lands without the payment of the taxes assessed upon the sixty-five foot strip which is within the improvement district. Can the County Treasurer permit the segregation and payment upon the lands, not including those within the improvement district? This tract of land, owned by the taxpayer, consists of approximately sixty-five or seventy acres which have never been platted into lots or streets."

We know of no authority permitting the segregation of the lands in the manner suggested by the taxpayer and in the absence of such authority we do not think the county treasurer can legally permit it. See 15 Opinions of the Attorney General 44.) Lands must be classified for tax purposes according to legal subdivisions (Section 2026, R. C. M., 1935), and assessed in parcels and subdivisions (2023 Id.). We know of no statutory authority permitting the owner to require segregation of an unplatted strip of land such as is described from a legal subdivision and to have the same separately assessed for tax purposes.