

Opinion No. 69-86

August 4, 1969

BY: OPINION OF JAMES A. MALONEY, Attorney General James V. Noble, Assistant Attorney General

TO: Honorable John R. Tomlin, New Mexico State Representative, Rt. 2, Box 267, Las Cruces, New Mexico

QUESTIONS

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May persons employed in the reappraisal program enter a home to obtain information needed to determine the actual value of real property for the purposes of the reappraisal program?

CONCLUSION

See analysis.

OPINION

{*136} ANALYSIS

The reappraisal program was undertaken by the State of New Mexico under the provisions of Section 72-2-21.1, N.M.S.A., 1953 Comp. (P.S.) as amended. The program was initiated by the Legislature in an effort to assist the various counties in the state in complying with constitutional requirements that property be assessed in proportion to its true value, and to assist the state in following its requirements that reasonable uniformity in taxation be secured.

Improvements, such as homes, out buildings, etc., are considered a part of the real estate and the value of such improvements are considered in arriving at a determination of the value of such real property. Thompson on Real Property, Vol. 1, p. 62. Section 70-1-33, N.M.S.A., 1953 Compilation.

{*137} The reappraisal statutes provide for contracts to be entered for the reappraisal for assessment purposes of real property. The duties involved in the assessment of property are set forth in numerous statutes including Sections 72-2-1 through 72-2-51, 72-6-1 through 72-6-20, N.M.S.A., 1953 Compilation, as amended, and the reappraisal sections heretofore mentioned.

Section 72-2-10.2, supra, requires the assessing officer to make reasonable efforts to view all property to be valued by the assessor. Section 72-2-10.3, supra, makes it a

misdemeanor for a person to refuse to assist in making out a list of property required or to refuse to allow the assessor to view the property to be assessed.

The statutes cited do not grant any authority for trespass to assessors (reappraisal contractors). However, the person attempting to determine true value of property for tax purposes, as required by law, is required to make a **lawful and reasonable** attempt to view the property to be assessed and it is a misdemeanor for one to refuse to allow **such person** to view the property. If the property owner refuses to permit the **authorized person** attempting to view property for assessment purposes to enter and view such property, the person attempting to determine value is nevertheless required to determine values for assessments. He may use any reasonable basis for such determination and, if not allowed to view property, must use such basis for retermination of valuation as is reasonable. Since the assessor must use the final valuations determined under the reappraisal program the legislature, in carrying out the uniform assessment requirements has, in part, substituted the reappraisal contractor for the county assessor.

In passing, it is noted that the present reappraisal contracts do not call for a determination of value of personal property. This is still being done by the local assessors. The reason for viewing the interior of improvements on real property is to assist the person in determining value. For example, ceramic tile work as compared to vinyl tile may result in different values ascertained to be applicable to improvements.