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LETTER

60-55-L

STANLEY E. COOLMAN

I Concur

NEWMAN W. WHITE

I Concur

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ARIZONA ATTORNEY GENERAL

March 31, 1960

Mr. James Boyce Scott
County Attorney of Greenlee County
Courthouse
Clifton, Arizona

Dear Mr. Scott:

Receipt is acknowledged of your letter asking question concerning whether or not the County Board of Supervisors may compromise delinquent taxes under the particular fact situation described in your letter.

After reviewing the matter fully, it is the opinion of this office that the County Board of Supervisors cannot compromise delinquent taxes. The Arizona Supreme Court, in the case of *Linville v. Cheney* (1943), 60 Ariz. 325, 137 P.2d 395, held that in a situation very similar to the one described in your letter, the Board of Supervisors of the County of Maricopa could not compromise delinquent taxes due and owing. The Court said, on page 332:

"Confirmatory of what we have heretofore said in section 73-822 authorizing the board of supervisors to compromise the taxes when it shall appear that the real estate 'is not worth the amount of taxes, interest, costs, and penalties due thereon, as charged in said back tax book, or that the same would not sell for that amount.' This provision seems to be the only one passed by the legislature authorizing a settlement for less than the taxes, interest, etc., and it is based upon the determination by the board that the real estate is not worth such amounts."

Since your factual situation does not seem to be a case where the real estate is worth less than the taxes, the law is quite clear that a compromise cannot be effected.

In addition, the *Linville v. Cheney* case discusses the matter of taxes owed beyond the five year statute of limitations and holds that these taxes, while not collectible, are at least a lien on the property. Such a lien, the Court then says, cannot be removed except by the payment of the full

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amount of taxes, interest and penalties. As said before, this amount cannot be compromised.

This office regrets that your request for an opinion, of March 12, was not received until March 28, which was too late for us to get an answer to you in time for your next Board of Supervisors meeting.

If you have any further questions, please feel free to contact us.

Very truly yours,

WADE CHURCH
The Attorney General

STANLEY Z. GOODFARB
Assistant Attorney General

G:c

60-55-2