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OFFICERS:
County Assessor
Inspecting of Records

Honorable Robert Lehnhausen
Director
Department of Local Government Affairs
309 West Washington Street
Chicago, Illinois

Dear Mr. Lehnhausen:

I have your recent letter wherein you state in part:

"The Department of Local Government Affairs is conducting an investigation into the assessment practices in certain counties located in the State of Illinois. During the course of this investigation it has been, and will continue to be, necessary to examine and copy certain documents in the possession of the assessor. For purposes of this letter, the word "assessor" shall include county assessors, supervisors of assessment and township assessors. These records include, inter alia, assessment rolls, property record cards, files justifying lower assessments of certain parcels of land within a particular county, intra-office memos relating to the method of valuation and assessment of parcels within the assessment practices in the county.

The Department's investigation has begun with a study of the Cook County Assessor's office, since it is by far the largest and most complex in the State. To begin the investigation the Department requested that the Cook County Assessor make the following information available to the Department for inspection and copying: assessment rolls for the last three years, property record cards for selected property in the County, information provided by taxpayers to justify a proposed revision in valuation and/or assessment and intra-office memos relating to the method of valuation and/or assessment used by the Cook County Assessor on parcels located within his jurisdiction. The Cook County Assessor has allowed the Department access to the assessment rolls, but as to the other documents has stated that he questions the Department's right to inspect and copy the documents.

Much of the information in the Cook County Assessor's office, and perhaps in other assessors' offices throughout the State, has been fed into computer systems. The information placed in the computer systems can be retrieved more easily and more accurately at a reduced cost as compared to the retrieval of the information by hand. Therefore, availability of the computer tapes and programs would reduce the cost to the State to conduct this investigation, and would shorten the time within which the investigation can be accomplished. It would also insure a more accurate analysis, than if the State required to get the information manually.

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In addition, inquiries have been made to the Department as to the right of the public to inspect and

obtain copies of records from the Cook County Assessor's office.

* * * * *

Under the circumstances, I would appreciate an opinion from you as soon as possible as to the following questions:

1. Does the Department of Local Government Affairs have the right to fully inspect and copy the following types of documents in any assessor's office: (a) property record cards; (b) files maintained by the Assessor relating to the actual value and the assessed value of property in the County; (c) complaints, supporting documents and other evidence submitted by property owners, including income tax returns, in support of a proposed revision and correction of valuation; (d) inter-office memos relating to the method of valuation and assessment of parcels within the county; and (e) rules and regulations governing assessment practices in a County?

2. Does any assessor have the right to refuse to make available to the Department any files, records or documents maintained by his office? For example, are any intra-office memos deemed by existing law to be confidential so as to bar the Department from examination and copying of those records?

3. Does the Department have the right to review, use and copy computer tapes, computer programs and computer printouts prepared by or for any assessor, if those tapes, programs and printouts contain information relating to the assessments in the particular county or township as the case may be? Further, if this information is actually in the possession

of another unit of local government, i.e. the County in which the assessor is located, does the Department have the right to direct that unit of local government to produce the computer tapes, programs and printouts? Finally, does any unit of local government have the right to withhold any information relating to the use of or information in the computer system used for compiling and retrieving data for an assessor?

4. Does the general public have the right to inspect and copy the documents (referred to in paragraph 1, above) as they may relate to any and all property in the County?

5. Does any assessor have the right to refuse to make available to the public any files, records or documents maintained by his office?"

It is my opinion that any and all information in a County Assessor's office, regardless of the form in which that information is found, is open to inspection and copying by the Department of Local Government Affairs. This includes everything described in your letter whether the information is raw data or processed information and regardless of whether the data exists in computerized form. The only test applicable to the Department's rights is whether the information is in any way, either directly or indirectly, related to the assessment and valuation of real estate or personal property.

There can be no question as to the power of the State to have access to such information. Counties are agents

for the State. They have only such power, such rights and such duties as may be bestowed upon them by the State. In Illinois the Legislature has all governmental power except that which is given to the Federal government by the Constitution of the United States, and that which is not expressly limited by the Illinois Constitution of 1970.

In the case of J. I. Case Co. v. Industrial Com.,

378 Ill. 128 the Court said at page 132:

" * * * A county is a public corporation, which exists only for public purposes, connected with the administration of the State government.

(Wetherell v. Davine, 116 Ill. 631.) Again, it has been pertinently observed (County of Cook v. City of Chicago, 311 Ill. 234) that counties are 'local subdivisions of the State created by the sovereign power of the State of its own will.

* * * County and township organizations are created in this State with the view to aid in carrying out the policy of the State at large for the administration of matters of political government, finance, education, taxing, care of the poor, military organizations, means of travel and the administration of justice.' * * *"

In the case of County of Stark v. County of Henry,

326 Ill. 535 the Court said at pages 537 and 538:

* * * * A county is a public corporation which

exists only for public purposes connected with the administration of the State government, and it and its revenues are alike, where no express constitutional restriction is found to the contrary, subject to legislative control. * * * The power conferred upon a county to raise revenue by taxation is a political power, and the application of such revenue, when collected, must necessarily be within the control of the legislature for political purposes. * * * All legislative power is vested in the General Assembly, subject to the restrictions contained in the State constitution and the constitution of the United States. Every subject within the scope of civil government which is not within some constitutional inhibition may be acted upon by it. (Italia America Shipping Corp. v. Nelson, 323 Ill. 427.) Counties are but political subdivisions of the State and are subject to the full control of the State, acting by general law through the legislature, and the property held by counties is not private but public property. * * *

In the case of County of Cook v. City of Chicago,

311 Ill. 234 the Court said at pages 239 and 240:

* * * Quasi municipal corporations, such as counties and townships, are at most but local organizations, which are created by general law, without the consent of the inhabitants thereof, for the purpose of the civil and political administration of government, and they are invested with but few characteristics of corporate existence. They are, in other words, local subdivisions of the State created by the sovereign power of the State of its own will, without regard to the wishes of the people inhabiting them. * * * County and township organizations are created in this State with a view

to aid in carrying out the policy of the State at large for the administration of matters of political government, finance, education, taxing, care of the poor, military organizations, means of travel and the administration of justice. * * * Counties and towns, being purely auxiliaries of the State, owe their creation to the general statutes of the State, which confer upon them all the powers which they possess and prescribe all the duties and liabilities to which they are subject. * * *

See also Yakley v. Johnson, 295 Ill. App. 77, 80.

There can be no question but what the Legislature has the authority to do as it will with reference to the office of Assessor. This would obviously include a grant of authority to a department or any other political unit or subdivision of the State to carry out that legislative will. It was said with reference to the records of a recorder in the case of Silver v. The People ex rel. Whitmore, 45 Ill. 224 at page 226:

* * * * The legislature has the undoubted power to authorize any person it may see proper to have free access to a recorder's office for the purpose of transcribing the records for such purposes as it may deem the public interests to require. * * *

The Legislature has clearly, concisely and completely authorized the Department of Local Government Affairs to obtain

all information concerning which you inquire from any County Assessor. It is difficult to envision a more explicit or all-encompassing grant of authority. Even a cursory examination of the duties imposed upon the Department by the Legislature and the grant of power and authority to discharge those duties can lead to no other conclusion than that set forth herein.

Section 130 of The Revenue Act of 1939 (Ill. Rev. Stats. 1971, ch. 120, par. 611) reads in part:

"§ 130. The Department shall:

(1) Direct and supervise as provided by this Act the assessment for taxation of all real and personal property in this State to the end that all assessments of property be made relatively just and equal;

(2) Confer with, advise and assist local assessment officers relative to the assessment of property for taxation;

(3) Prescribe general rules and regulations, not inconsistent with law, for local assessment officers relative to the assessment of property for taxation, which general rules and regulations shall be binding upon all local assessment officers and shall be obeyed by them respectively until reversed, annulled or modified by a court of competent jurisdiction;

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Section 131 of The Revenue Act of 1939 (Ill. Rev. Stats. 1971, ch. 120, par. 612) reads in part:

"§ 131. The Department shall have power:

(1) To require local assessment officers to meet with it from time to time for the purpose of considering matters relative to taxation;

* * * * *

(5) To request the institution of proceedings, actions and prosecutions to enforce the laws relating to the penalties, liabilities and punishment of public officers, persons, or officers or agents of corporations for failure or neglect to comply with this Act;

(6) To order in any year a reassessment of all real and personal property, or real or personal property, or any class of personal property, in any county, or in any assessment district thereof, when in its judgment such reassessment is desirable or necessary, and for that purpose to cause such reassessment to be made by the local assessment officers, and cause it to be substituted for the original assessment;

(7) To take testimony and proofs under oath and to require the production of books, papers and documents pertinent to any assessment, investigation or inquiry and for that purpose to subpoena and compel the attendance of witnesses;

(8) To require from all State and local officers such information as may be necessary for the proper discharge of its duties;

(9) To examine and make memoranda from all records, books, papers, documents, statements of account on record or on file in any public office of the State or of any taxing district of the State and all public officers having charge or custody of such records shall furnish to the commission information of any and all matters on file or of record in their respective offices;

* * * * *

Section 135 of The Revenue Act of 1939 (Ill. Rev.

Stats. 1971, ch. 120, par. 616) reads in part:

"§ 135. In case any person refused to comply with any subpoena issued by the Department, or to produce or to permit the examination or inspection of any books, papers and documents pertinent to any assessment, investigation or inquiry, or to testify to any matter regarding which he may be lawfully interrogated by the Department, the circuit court for the county in which such matter or hearing is pending, on application of the Department, shall compel obedience by attachment proceedings as for contempt, as in a case of disobedience of the requirements of a subpoena from such court on a refusal to testify therein. "

Section 140 of The Revenue Act of 1939 (Ill. Rev. Stats. 1971, ch. 120, par. 621) reads in part:

"§ 140. Whenever it shall appear to the Department that the real or personal property in any county, or in any assessment district thereof, has not been assessed in substantial compliance with law, or has been unequally or improperly assessed, the Department may, in its discretion, in any year, whether after or before the original assessment is completed by the local assessment officers, order a reassessment for such year of all or any class of the taxable property in such county, or assessment district thereof; * * *"
(Emphasis added.)

Section 146 of The Revenue Act of 1939 (Ill. Rev. Stats. 1971, ch. 120, par. 627) reads in part:

"§ 146. The Department shall act as an equalizing authority. It shall examine the abstracts of property assessed for taxation in the several counties and assessment districts in counties having assessment districts as returned by the county clerks and shall equalize the assessments between counties as in this Act provided. The Department shall lower or raise the total assessed value of property in any county as returned by the county clerk so that such property will be assessed at its full, fair cash value.

By means of a comparison of assessed valuations, as revised by boards of review or boards of appeals, as the case may be, and estimated full, fair cash values established through the analysis of property transfers, property appraisals, and such other means as it deems proper and reasonable, the Department shall annually ascertain and determine the

percentage relationship, for each county of the State, between the valuations at which locally-assessed property is listed by assessors and revised by boards of review or boards of appeal, as the case may be, and the estimated full, fair cash value of such property.

* * * * * (Emphasis added.)

The powers of the Department are not only those which are explicitly and expressly set forth in the statute, but they also include all powers which are implicit and essential in carrying out the duties imposed. Public Service Co. v. Recktenwald, 290 Ill. 314, 318; United States v. Jones, 204 F. 2d 745, 754 (7th Cir. 1953), 346 U.S. 854, rehrg. den. 346 U.S. 905; Tinkoff v. Campbell, 86 F. Supp. 331 (ND Ill. 1948); Dickey v. Raisin Proration Zone, 24 Cal. 2d 796, 151 P 2d 505, 147 ALR 324, 333-334.

The Department's duties are two-fold; it must direct and supervise the Assessor in assessing property, and also equalize assessments between counties or assessing districts. If the Department has the duty to insure procedures by the Assessor which will result in assessments which are "just and equal", the Department has the right to

all information available to the Assessor which is in any way connected with either individual assessments or overall assessment practice. This right is inherent in the word supervise alone.

The Department has the duty not only to direct and supervise, but to prescribe rules and regulations and see that they are followed. In order to do so, the Department must necessarily be informed as to the application of those rules and regulations to individual assessments so as to be able to form an opinion on whether the results are "just and equal" both on an individual basis or on a district, county or state-wide basis. In order to know the whole, the Department must know the parts. In achieving these ends, it is difficult to imagine any information available to the Assessor that would not and should not be equally available to the Department. This would even include information within the knowledge of the Assessor that has not been reduced to writing or otherwise recorded, preserved or filed.

Nor do I know of any reason why the Assessor would

not want to make such information known to the Department. There is no statutory prohibition which imposes upon the Assessor the duty of secrecy from the Department regarding information gathered by him in assessing property. Certainly as agent of the State the Assessor has no obligation which is superior to his duty of responsibility and candor to the State of Illinois; he owes the same duty to the State that any agent owes to his principal.

The Department's right to copy is incidental to its right to examine or inspect records. At common law the right to reproduce, copy and photograph was incident to the common law right to inspect and use public records. (People ex rel Gibson v. Peller, 34 Ill. App. 2d 372.) The right to copy is a necessary incident of the right to inspect, otherwise the purpose of the inspection would largely be thwarted, or at least the person making the inspection would be subjected to much inconvenience and loss of time. In Re Becker, 200 App. Div. 178, 192 N.Y. Supp. 754, 756; Direct Mail Service, Inc. v. Registrar of Motor Vehicles et al., 5 N.E. 2d 545, 108 ALR 1391, 1394 (Mass. 1937); Fuller v. State, 17 So. 2d 607

(Fla. 1944).

What has been said about the right of the Department to information in the possession of the Assessor is equally and coextensively applicable to information in the possession of any other county officer. Sub-paragraph 9 of section 131 of The Revenue Act of 1939 (quoted p.10 supra) should need no interpretation. The Department's right to obtain information from other county offices, in this situation, is limited only by the relevancy of that information to assessments.

In your letter you referred to my opinion issued February 16, 1972 (S-404). That opinion quoted section 152 of The Revenue Act of 1939 which reads:

"§ 152. Nothing contained in this Act shall be construed to give the Department any power, jurisdiction or authority to review, revise, correct or change any individual assessment made by any local assessment officer." Ill. Rev. Stats. 1971, ch. 120, par. 633.

The opinion expressed herein is consistent with section 152 which restricts the Department's authority to change individual assessments and does not impair in any way

the Department's right to information concerning such assessments. The words "revise, correct and change" require no definition; nor should the word "review", which, taken in context, means substantially the same thing. Review is: "a looking over or examination with a view to amendment or improvement" (Webster's Third New International Dictionary); "consideration for purposes of correction" (Black's Law Dictionary 4th Edition 1957). This definition of the word "review" is further dictated by the doctrine of noscitur a sociis (a word is known by the company it keeps; Jaracki v. G. D. Searle & Co. 367 U.S. 303; 1959 Ill. Atty. Gen. Op. 84; 1957 Ill. Atty. Gen. Op. 42). "Review" must necessarily carry with it a connotation of change, revision, correction or improvement; it cannot be defined, for purposes of interpretation of section 152, as merely meaning examination or inspection. This construction of section 152 and particularly of the word "review" is the only construction that is consistent and harmonious with the powers, duties and obligations of the Department in directing and supervising the assessor for the purposes of obtaining

just and equal assessments within a county or taxing district, as well as for the purpose of equalizing assessments throughout the State.

I believe the foregoing discussion answers all the questions posed by you in numbered paragraphs 1, 2 and 3 of your letter.

The questions posed in numbered paragraphs 4 and 5 of your letter are not accompanied by any statement of facts under which your Department has any current official duty to act with regard to the matters involved. I, therefore, suggest that those questions be presented at some future time if problems concerned therewith confront your Department.

However, I do note that some of the records covered by your questions are described in language identical to that contained in two statutory provisions to which I direct your attention.

Section 2a of The Revenue Act of 1939 reads:

"§ 2a. All property record cards maintained by a township assessor, county assessor, supervisor of assessments or board of assessors shall be public records, and shall be available for public inspection and examination during business hours, subject to reasonable rules and regulations of the custodian of such records. Upon request and payment of such reasonable

fee as may be established by the custodian of such records, a copy shall be provided to any person." Ill. Rev. Stats. 1971, ch. 120, par. 483.01.

Section 98.1 of The Revenue Act of 1939 reads:

"§ 98.1. In all counties of this State all hearings held by the County Assessor, supervisor of assessments or board of assessors in support of or in opposition to a proposed revision or correction in assessed valuation shall be open to the public. All files maintained by the Assessor, supervisor of assessments or board of assessors and relating to the assessed valuation of any property and all complaints, supporting documents, and other evidence submitted by the property owner in support of a proposed revision and correction of valuation shall be available for inspection by the public during regular office hours of the Assessor, supervisor of assessments or board of assessors.

If a property owner wishes to support his request for a revision or correction of valuation of his property by facts set forth in income tax returns, he shall submit the entire return to the County Assessor, Supervisor of Assessments or Board of Assessors, provided however that only the actual portions of the return relating to the property for which a revision or correction is requested shall be a public record. If requested by the County Assessor, Supervisor of Assessments or Board of Assessors, the property owner shall execute a consent in favor of said Assessor, Supervisor or Board instructing the taxing body with which the income tax return was filed to furnish a certified copy of the return so that the accuracy of the copy submitted to the Assessor, Supervisor or Board may be verified.

Any person shall be promptly furnished copies of all complaints, supporting documents and other evidence, subject to the foregoing qualification, submitted by a property owner in support of a proposed revision and correction of valuation for his property and all public records of the County Assessor, Supervisor of Assessments or Board of Assessors by the Assessor, Supervisor or Board for a fee of 35 cents per page when the page to be photographed does not exceed legal size and \$1 per page when the page to be photographed exceeds legal size." Ill. Rev. Stats. 1971, ch. 120, par. 579.1.

Very truly yours,

A T T O R N E Y G E N E R A L