

Continued

These sections of the Public General Law confirm the right which already existed in the City Collector to proceed in the collection of taxes upon real estate by way of suit if he so desires.

On September 10th, 1929, Mr. Kraus, then City Solicitor, in answer to an inquiry as to whether a Collector could be charged with taxes which had been barred by limitations, laid down the following principles:

"The City Collector is not an insurer of the collectibility of the accounts referred to him for collection. His duty is to use diligence in attempting to collect them. If, with reasonable promptness, he employs every means provided by law in attempting to make collection, that is the most that can be expected of him. If, on the other hand, he fails to make use of such means and negligently permits accounts to become barred, then, in my opinion, such accounts would be properly chargeable against him. It depends, in every instance, upon what steps he takes to make collection and the promptness with which he acts."

Opinions of City Solicitor, Vol. 30,
pp. 9046, 9047

Applying the law as stated by Mr. Kraus and as set forth in the Sections quoted from the Charter and the Code, I am of the opinion that Mr. Young has the right to proceed to collect these taxes by way of suit rather than by way of sale of the property. Indeed, in view of the small amount of taxes involved in each case, the character of the property taxed, the expense of advertising and the fact it is practically certain the City would be obliged to buy in the properties, the Collector might be criticised for proceeding by way of tax sale rather than by suit.

Very truly yours,

(signed) PAUL F. DUE

Deputy City Solicitor

PPD/RRS