

September 6, 1918.

OPINION NO. 734.

TAXES. COLLECTION.

The lien for taxes due upon real property described in Section 1291, R.L.H. 1915, may be foreclosed under the provisions of Section 1292 without suit.

SAME. SAME.

All other taxes due at the time of the foreclosure of tax lien may be paid from the proceeds of such foreclosure.

Charles T. Wilder, Esq.,  
Tax Assessor, First Taxation Division,  
Honolulu.

Dear Sir: I beg to acknowledge the receipt of your inquiry over the telephone relative to the procedure to be followed by your department in collecting delinquent taxes from a known non-resident delinquent.

I understand from you that the delinquent in this case is a non-resident of this taxation division but resides in Kohala, Island of Hawaii, and that the taxes are due and delinquent upon certain real property situated within this taxation division.

I beg to advise you that the simplest procedure to be followed in the collection of this tax is by way of enforcement of the lien, which lien is defined in Section 1291, R.L.H. 1915, by the method described in Section 1292. Section 1291 provides that "every tax upon property shall be a prior lien on the property assessed." This section also provides for a foreclosure of this lien by proceedings before a circuit judge at chambers, which method would probably be too ex-

pensive in actions for the collections of small amounts. Section 1292, however, provides an economical and speedy method of foreclosure of this lien. Briefly stated, this section provides that all real property may be sold by way of foreclosure of the tax lien without suit, by the Tax Assessor at public auction after giving notice at the time and in the manner described in said section.

Section 1298, R.L.H. 1915, provides for another method of collecting the delinquent tax, which method, in my opinion, is not as speedy or economical as that provided for by Section 1292.

I am of the opinion, therefore, and so advise you, that you should proceed under the provisions of Section 1292, R.L.H. 1915.

Your attention is also called to a further provision of Section 1291 which authorizes you, upon such foreclosure, to pay out of the proceeds of the foreclosure sale not only the amount of the lien but also "all taxes of whatsoever nature and howsoever accruing due at the time of the foreclosure sale." I am,

Yours truly,

HARRY IRWIN,  
Attorney General.