

**OPINION  
66-280**

December 19, 1966 (OPINION)

Mr. Fabian E. Noack

State's Attorney

Foster County

RE: Taxation - Sale of Land for Special Assessments - Cancellation o

This is in reply to your letter with regard to lands sold for taxes when special assessments become involved.

You call our attention to that part of Section 57-28-09 of the 1965 Supplement to the North Dakota Century Code stating:

\* \* \* Such tax deed shall pass the absolute property in fee to the county, free from all encumbrances whatsoever, except installments of special assessments certified or to be certified to the county auditor or what may become due subsequent to the time of the service of the notice of expiration of the period of redemption; provided that so long as the county holds title under a tax deed to such property, it shall not be liable for the payment of any such installments which may become due unless the board of county commissioners has leased or contracted to sell such property. \* \* \*."

You also call our attention to that part of Section 57-28-21 of the 1965 Supplement to the North Dakota Century Code that states:

After any real estate has been sold for cash or upon a contract for deed which has been fully performed and a deed has been issued and delivered to the purchaser thereof, the board of county commissioners, by general resolution, shall provide for the cancellation of all general taxes, hail indemnity taxes, and special assessments remaining of record against the premises sold at the date of such sale. \* \* \*."

You state that when one considers Sections 57-28-09 and 57-28-21 some confusion arises as to special assessments that are forgiven. In many cases, an additional year of special assessment will be levied between the time that the county acquires a tax deed and the date that the county will sell the premises to a third party.

You therefore state that you would appreciate our comments as to what special assessments the purchaser would be liable for after a sale as above mentioned.

In determining appraisal for annual sale of tax deed lands pursuant to Section 57-28-10 of the 1965 Supplement to the North Dakota Century Code, special assessments are of course a point to be considered, including those special assessments certified to or to be certified to the county auditor or that may become due subsequent to the time of the service of the notice of expiration of the period of

redemption.

In effect, the price the purchaser agrees to pay in the usual instance would include all of such special assessments, though you will note that said section does further authorize the board of county commissioners to: "if the fair market value of such property is less than such total amount, the board shall fix a fair and just minimum sale price for such property."

After the sale to a purchaser of county owned tax deed lands, however, the provision of Section 57-28-21 of the 1965 Supplement to the North Dakota Century Code is quite explicit. Under its terms, if we may attempt to paraphrase the words of the statute, the county commissioners are required to cancel all general taxes, hail indemnity taxes and special assessments remaining of record against the premises sold at the date of such sale.

HELGI JOHANNESON

Attorney General