

Office of the Attorney General  
State of North Dakota

Opinion No. 83-45

Date Issued: December 21, 1983

Requested by: Jay H. Fiedler  
Grand Forks City Attorney

--QUESTIONS PRESENTED--

I.

Whether, when a county sells tax deeded real estate to a city pursuant to Section 57-28-17 of the North Dakota Century Code, there is a right of redemption by the former owner, his executor, or administrator, or any member of his immediate family.

II.

Whether prior unpaid special assessments constitute a continuing lien against the property purchased by a city.

III.

Whether property purchased by a city pursuant to Section 57-28-17, N.D.C.C., is subject to special assessments not yet certified on the date of sale.

--ATTORNEY GENERAL'S OPINION--

I.

It is my opinion that, when a county sells tax deeded real estate to a city pursuant to Section 57-28-17, N.D.C.C., there is no right of redemption by the former owner, his executor, or administrator, or any member of his immediate family.

II.

It is my further opinion that unpaid special assessments do not constitute a continuing lien against property purchased by a city.

III.

It is my further opinion that property purchased by a city pursuant to Section 57-28-17, N.D.C.C., is subject to special assessments not yet certified on the date of the sale.

--ANALYSES--

I.

Section 57-28-17, N.D.C.C., provides in pertinent part:

57-28-17. SALE BETWEEN ANNUAL SALES. \* \* \*  
Notwithstanding the provisions of this section or other provisions of law, any such parcel of real estate that is subject to a special assessment lien for improvements made by a city may be sold between annual sales by the county auditor for cash to the city at whatever price less than the minimum sales price that is agreed upon by the board of county commissioners and the governing body of the city.

Although there is no recorded legislative history extant relative to the origin of the above-cited provision, it appears clear that it is to apply regardless of any other provisions of law, including the provisions of Section 57-28-18, N.D.C.C.

Furthermore, a sale to a city pursuant to Section 57-28-17, N.D.C.C., would not constitute a private sale to 'any person' as contemplated by Section 57-28-18, N.D.C.C.

Therefore, the provisions of Section 57-28-18, N.D.C.C., are not applicable in case of sale of tax deeded property by a county to a city pursuant to Section 57-28-17, N.D.C.C.

II.

The above-cited provision of Section 57-28-17, N.D.C.C., relates only to the sale of real estate to a city. It does not purport to address the question of special assessments. Therefore, the provisions of Sections 57-28-20(3) and 57-28-21, N.D.C.C., remain applicable. Those provisions require that the amounts of unpaid special assessments (and general taxes) remaining after the sale are to be removed and cancelled from the record.

III.

Section 57-28-28, N.D.C.C., also provides that those installments of special assessments certified or to be certified to the county auditor which were not due at the date of the sale are not to be cancelled. That provision also applies in spite of the language of Section 57-28-17, N.D.C.C., cited above.

--EFFECT--

This opinion is issued pursuant to Section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the questions presented are decided by the courts.

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Attorney General

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