

LETTER OPINION
93-L-208

June 25, 1993

Mr. F. C. Rohrich
Emmons County State's Attorney
P.O. Box 657
Linton, ND 58552-0657

Dear Mr. Rohrich:

Thank you for your May 21, 1993, letter wherein you inquire whether land taxed as a unit may be partitioned and the taxes paid on the partitioned unit. You refer to an October 25, 1979, letter from Special Assistant Attorney General Kenneth M. Jakes to Mercer County State's Attorney John E. Jacobson which discussed this issue.

The letter to Mr. Jacobson was in response to the following question: "[w]hen a portion of land, formerly included in a single taxing unit is sold, is the County Treasurer required to apportion the present and delinquent taxes between the total unit in that parcel sold from that unit?". Letter from Special Assistant Attorney General Kenneth M. Jakes to Mercer County State's Attorney John E. Jacobson (October 25, 1979).

The conclusion reached by this office was stated as follows:

It is our opinion that the procedure in NDCC Chapter 57-25 for payment of taxes or making redemption from tax sale on division of real estate that was taxed as a unit is a procedure that applies not only for apportioning the amount required to redeem from tax sale but also for apportioning the amount of current, unpaid real estate taxes, whether or not delinquent, that have not yet been included in tax sale proceedings.

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Letter from Special Assistant Attorney General Kenneth M. Jakes to Mercer County State's Attorney John E. Jacobson (October 25, 1979).

You express concern in your letter that this conclusion may conflict with the language of N.D.C.C. ? 57-02-38 requiring that "where a building or structure covers two or more contiguous lots or parts of lots owned by the same person the assessment shall not be entered separately as to each lot or part of lot, but the tract upon which the building is located shall be described and assessed as one parcel."

I do not think that the conclusion reached in the October 25, 1979, letter conflicts with the language of N.D.C.C. ? 57-02-38. N.D.C.C. ? 57-02-38 applies only if the single taxing unit continues to be owned by the same person. The October 25, 1979, letter relates only to situations when a portion of the single taxing unit is sold to another person. Therefore, it is my opinion that the conclusion reached in the October 25, 1979, letter remains valid.

Sincerely,

Heidi Heitkamp
ATTORNEY GENERAL

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