

**OPINION
45-255**

October 11, 1945 (OPINION)

SPECIAL ASSESSMENTS

RE: Property Owned by County

Re: Special Assessments.

Your letter of October 10, 1945, relating to special assessments, has come to my desk for attention. Your letter does not give sufficient data to enable us to understand the exact situation.

If the county has taken tax title to certain city lots and the city now desires to make special improvements and to levy special assessments therefor, an agreement with the county can be made under the provisions of sections 40-2206 and 40-2207 of the North Dakota Revised Code of 1943. These sections were sections 1 and 2 of chapter 203 of the Session Laws of 1941. This law was apparently adopted to cover your situation. Of course, as a general rule, county-owned property is not subject to tax.

Section 57-2821 provides that if the county has acquired tax title and sold lots, all general taxes, hail indemnity taxes, and special assessments then remaining of record shall be canceled. Thus, if a lot has been assessed for special benefits and the taxes have not been paid thereon and the county has taken tax title and resold the property, all special assessments then levied would be canceled. However, as these taxes are levied year by year, assessments thereafter levied for the original benefit would be liens on the land in the hands of the new owner. But the old assessments would be gone. Of course, when taxes are not paid on land, including special assessments, the property will be sold for taxes. If there are both general taxes and special assessments unpaid at the time of sale, the property is bid in for the county. If, at the time of sale for taxes, there are no general taxes but there are special assessment taxes due, the certificate of sale shall be issued to the municipality, and if the property is not redeemed from the sale, a tax deed will be issued to the municipality. If the tax certificate is issued to the county where the land is sold for both general taxes and special assessments, the municipality may pay the county the general taxes and receive an assignment of the certificate, and if there is no redemption the municipality would take tax title. In this way, the municipality may protect itself. As to these features of the law, see chapter 40-25 of the Revised Code of 1943.

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Attorney General