

**OPINION
45-74**

December 18, 1945 (OPINION)

DRAINAGE

RE: Land Owners - Majority Each Owner Has - Right to Vote

This will acknowledge the receipt of your letter of December 15, 1945, in which you request the interpretation of this office of section 61-2115 of the North Dakota Revised Code of 1943. You request our answers to the following questions:

1. Does 'majority of landowners' mean majority of people benefited or does it mean a majority of acres benefited?
2. When there are two or more owners of a parcel of land each holding an undivided interest, is each one entitled to a vote in protesting or is such parcel entitled to only one vote? (I mean where there are several owners of a quarter or half section or whatever the acreage may be)."

In answer to your first question, I beg to advise you that in our opinion the term "landowners" as used in section 61-2115 must be construed in the ordinary sense, that is to say, in the sense that it is ordinarily used and understood. Section 1-0202 of the Revised Code provides:

"Words used in any statute are to be understood in their ordinary sense, unless a contrary intention plainly appears, but any words explained in this code are to be understood as thus explained."

Chapter 61-21 of the Revised Code relating to drainage projects does not contain a statutory definition of the term "landowners." Therefore, as stated above, it must be construed to mean what it ordinarily implies.

It is, therefore, the opinion of this office that the term "landowners" as used in section 61-2115 means a majority of the persons owning land within the proposed district, not the owners of a majority of acres of land benefited. In the case of a petition for the dissolution of a drain the "owners of property subject to fifty-one percent or more of the liability for maintaining the drain must sign the petition." And in the case of irrigation districts, it is the number of acres of land owned that controls--not the number of owners of land. It may be that an amendment of section 61-2115 would be advisable. That, however, is a matter which the Legislature must determine.

Answering your second question, it is our opinion that every landowner is entitled to a vote whether he holds title to an undivided interest in land or is the owner in its entirety of a tract of land.

NELS G. JOHNSON

Attorney General