

## **N.D.A.G. Letter to Haskell (May 26, 1987)**

May 26, 1987

Mr. Bruce B. Haskell  
Assistant State's Attorney  
Burleigh County Courthouse  
514 East Thayer  
Bismarck, ND 58501

Dear Mr. Haskell:

Thank you for your April 14, 1987, letter regarding the time period for publication of the notice of the period of redemption of lands on which tax certificates have been issued and which have not been redeemed or assigned. I apologize for the delay in answering your letter.

Specifically, you are concerned with the language of N.D.C.C. § 57-28-06 which provides that the notice of the expiration of the period of redemption "shall be published once before August first in the official newspaper of the county wherein such real estate is situated." Apparently, Burleigh County did not publish its notice relating to the 1986 tax deed sale until August 1, 1986.

Your inquiry is whether there must be strict compliance with this statutory language and what is the effect of noncompliance if strict compliance is required.

In Coverston v. Grand Forks County, 23 N.W.2d 746, 749 (N.D. 1946), the court stated the following:

It is exclusively within the power of the legislature to prescribe what notice [of the expiration of the period of redemption] shall be given and by whom in order that the county may acquire title to property against which it holds tax certificates.

In Knowlton v. Coye, 37 N.W.2d 343, 350 (N.D. 1949), the court stated the following:

The statute requiring notice of the expiration of the period of redemption must be strictly complied with in order to terminate the owner's right to redeem. [Citation omitted.] Valid tax titles can be acquired only after full compliance with the provisions of law intended for the protection of those having the right to redeem [citation omitted] . . . The failure to give the notice of expiration of the period of redemption required by statute is jurisdictional and invalidates a tax deed issued pursuant to such notice. [Citations omitted.]"

Also see Wittrock v. Weisz, 73 N.W.2d 355, 358 (N.D. 1955); Cota v. McDermott, 16 N.W.2d 54 (N.D. 1944).

Based upon these supreme court cases, it is my opinion that the notice given by Burleigh County did not strictly comport to the statutory requirements and that this error invalidates a tax deed issued pursuant to that notice.

If you wish to discuss this matter further, please do not hesitate to contact me.

Sincerely,

Nicholas J. Spaeth

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