

**N.D.A.G. Letter to Sillers (Jan. 26, 1988)**

January 26, 1988

Mr. Cameron D. Sillers  
Cavalier County State's Attorney  
901 3rd Street  
Langdon, ND 58249

Dear Mr. Sillers:

Thank you for your December 18, 1987, letter wherein you inquire about the notice of expiration of the period of redemption provisions for real estate sold for taxes.

In your letter, you inquire whether the county may give a valid deed to a good faith purchaser who purchased the property at the tax sale where the receipt card attached to the notice of expiration of the redemption period was never returned to the county.

N.D.C.C. § 57-28-01 provides as follows:

57-28-01. Notice of expiration of period of redemption to be given. On or before June first in each year, the county auditor shall give notice of the expiration of the period of redemption as to all tracts of real estate sold to the county, where three or more years have expired from the date of the original, or any subsequent, tax sale certificates issued or deemed to have been issued to the county, which have not been redeemed or assigned.

N.D.C.C. § 57-28-04 provides the procedure for giving the notice of the period of redemption. Under N.D.C.C. § 57-28-04 the "notice shall be served by registered or certified mail, and a registry and return receipt shall be demanded and filed with the proof of service . . . . The auditor shall make proof of such service by affidavit showing the names and addresses of all parties upon whom such notice was served . . . and shall file such affidavit . . . with the original notice of the expiration of the Period of redemption."

The North Dakota Supreme Court has addressed the procedural requirements for proper notice under N.D.C.C. § 57-28-04.

In the case of Brown v. Otesa, 80 N.W.2d 92 (N.D. 1957), in paragraph 2 of the syllabus, this court stated:

"Service by registered mail of a notice of expiration of the period of redemption is complete when the notice directed to the proper post office address of the person to be notified is registered and deposited in the mail."

Watkins Products, Inc. v. Coyle, 191 N.W.2d 254, 257 (N.D. 1971). In addition, N.D.C.C. § 1-02-36 provides that "[w]herever the term 'registered mail' appears in the laws of the state of North Dakota it means registered or certified mail."

Therefore, it is my opinion that under the factual circumstances described in your letter, proper notice was given under N.D.C.C. § 57-28-04 and to that extent the county may give a valid deed.

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

Sincerely,

Nicholas J. Spaeth

cv