

## Opinion No. 41-3683

January 9, 1941

**BY:** EDWARD P, CHASE, Attorney General

**TO:** Mr. David W. Carmody District Attorney First Judicial District Santa Fe, New Mexico

{\*23} Your letter of January 4 requested an opinion as to whether or not notice of issuance of tax deed sent by county treasurer to person listed on the tax rolls for the delinquent year is sufficient notice under Laws of 1934, Chapter 27, Section 16, or whether said treasurer must also send a notice of issuance of tax deed to any and all persons listed as owners of the property in tax rolls subsequent to the delinquent year.

Section 16, Chapter 27, Laws of 1934, is as follows:

"The money received by the county treasurer for the redemption of property sold for taxes shall be paid over to the person entitled thereto, or distributed to the proper funds if such certificate be in the name of the state.

Ninety days prior to the expiration of two years from date of sale of property for delinquent taxes as provided in this Act, the county treasurer shall give further notice to each delinquent taxpayer and/or mortgagee (when shown of record) by mailing same to his last known address, as shown by the tax rolls, that his property was sold for delinquent taxes, interest and costs on the date same was made, stating to whom same was sold, the amount for which same was sold, and that unless he redeems the same within two years from date of such sale, by paying the amount for which same was sold with interest thereon at the rate of one per cent per month from date of sale thereof, plus costs, a deed for said property will be executed to such purchaser or his assignee. The treasurer shall make affidavit showing compliance with this provision, which shall be recorded by the county clerk as other notices and affidavits provided in this Act; but the failure of any taxpayer to receive the same shall not affect or invalidate the deed to be executed to any property upon the expiration of two years from the date of sale thereof."

It is my opinion that under the foregoing provisions, it is sufficient for the treasurer of a county to send notice of issuance of tax deed to taxpayer listed on the tax rolls for the delinquent year. A subsequent owner need not be sent a notice; a deed issued without such notice having been sent to a subsequent purchaser would undoubtedly be valid under the decision of Maxwell vs. Page, 23 N.M. 356. See also Bull vs. Martinez, 43 N.M. 113. To impose upon a county treasurer the additional duty of ascertaining all subsequent purchasers of land upon which tax sale certificates have been issued would be so great a burden as to prevent the ordinary carrying on of business by that office; and further, the tax rolls as to counties are open for inspection and through them prospective owners can ascertain whether or not tax sale certificates have been issued {\*24} covering the property they intend to buy.

Hoping this opinion answers your question, I remain.

By GEO. H. HUNKER, Jr.

Asst. Atty. Gen.