

## No. 6

**COUNTY COMMISSIONERS—SALE OF COUNTY  
LANDS—REAPPRAISEMENT and READVERTISING**

**Held:** In event lands are not sold at first auction sale, County Commissioners may, at any time, sell same at private sale without reappraisal and readvertising at not less than 90% of last appraised value.

January 21, 1941.

Mr. Frank J. Roe  
County Attorney  
Silver Bow County  
Butte, Montana

Dear Mr. Roe:

Your communication of January 16, 1941, has been received, in which you ask for my interpretation of the provisions of Section 2208.1, Revised Codes of Montana, 1935, as amended by Chapter 193 of the Laws of 1939, and my opinion in regard to the procedure of Boards of County Commissioners in relation thereto.

The two pertinent paragraphs of said Chapter 193 of the Laws of 1939 are as follows:

“Section 1. That Section 2208.1 of the Revised Codes of the State of Montana be amended so that the same, when amended shall read as follows:

“Section 2208.1 **Sale of Tax Lands—Terms—Taxation of Lands Sold—Lease of Lands—Exchange of Lands and Land Use Policies.** Whenever the county shall acquire any land by tax deed, it shall be the duty of the board of county commissioners, within six months after acquiring title, to make and enter an order for the sale of such lands at public auction at the front door of the courthouse, provided, however, that notice of such sale shall be given by publication in a newspaper printed in the county, such notice to be published once a week for three successive weeks, and by posting notice of such sale in at least three public places in the county. Notice posted and published

shall be signed by the county clerk and one notice may include a list of all lands to be offered for sale at one time. It shall describe the lands to be sold, the appraised value of same and the time and place of sale and **no sale shall be made for a price less than the fair market value thereof**, as determined and fixed by the board of county commissioners prior to making the order of sale, which value shall be stated in the notice of sale.

"In the event any of said lands are not sold at such public sale, the county commissioners may at any time either again appraise, advertise and offer the same at public auction or sell the same at private sale at the best price obtainable, but at not less than **ninety per cent** of the last appraised value, and on such terms as may be agreed upon, provided the rate of interest on deferred payments shall not exceed four per cent per annum, and provided further that the terms other than price, as to each class of lands, grazing, farming and irrigated, shall be uniform in each county . . ."

It will be observed that there is no statutory provision compelling the Board of County Commissioners to reappraise and readvertise land for sale before a private sale can be made. After the Board of County Commissioners has appraised, published and noticed the sale, determined and fixed the fair market value, and the sale has been had, in event any of said lands are not sold at public sale, the County Commissioners may then at any time either again reappraise, readvertise and offer the said lands at public auction, or the County Commissioners may sell the said lands at private sale at the best price obtainable—but at not less than ninety per cent of the last appraised value—without reappraising or re-advertising the same.

It is my opinion that the legislative intent was to facilitate the selling of such lands by the county commissioners and to save the counties the expense of reappraisal and readvertising and the time involved therein; the fair market value having been determined by the appraisal and having been already determined and fixed by the County Commissioners.

Therefore, it is my opinion that such lands may be sold by the County Commissioners at private sale at not less than ninety per cent of the last appraisal, without reappraisal and readvertising, in the event the county commissioners determine such method is to the best interest of the county.

Very truly yours,

JOHN W. BONNER  
Attorney General