

... to apply to the county . . . treasurer . . . for the issuance to the county . . . of a tax deed for such property, and it shall be the duty of the county clerk . . . to give or post and cause to be published the proper notice of the application for such tax deed and to make proper proof thereof, all in the manner required by Section 2209."

The order of the county commissioners to apply for deed is directed to the county clerk, and it is the county clerk who is directed to make application to the county treasurer, the latter officer being the one who executes the deed after due proof that proper notice has been given. It necessarily follows the duty to prepare notices, etc., and look after the details necessary to secure the deed must be performed by the county clerk.

The same result must follow relative to stationary. The county clerk would use stationary furnished to his office in the same manner as in the performance of any other duty of his office.

Sincerely yours,
R. V. BOTTOMLY
Attorney General

Opinion No. 137

Tax Deeds—County Clerk—County Treasurer.

Held: County clerk must prepare and look after all details in application for tax deed made by county.

October 5, 1943.

Mr. J. Miller Smith
County Attorney
Lewis and Clark County
Helena, Montana

Dear Mr. Smith:

You request my opinion whether it is the duty of the county treasurer or the county clerk to prepare, post, cause to be published and mailed notices of application for tax deeds made for and on behalf of the county, and as to whether the stationary of the treasurer or clerk shall be used in preparing notices.

The matter is specifically and clearly decided by the provisions of Section 2209.1, Revised Codes of Montana, 1935, providing:

"Whenever a county . . . has become or hereafter becomes the purchaser of property sold for delinquent taxes, and is the holder of the certificate of sale when the time for redemption expires, the board of county commissioners . . . at any time thereafter deemed proper may order and direct the county clerk