



STATE OF KANSAS

## Office of the Attorney General

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**Curt T. Schneider**  
Attorney General

November 11, 1975

ATTORNEY GENERAL OPINION NO. 75-424

Mr. Patrick J. Reardon  
Leavenworth County Attorney  
Leavenworth County Courthouse  
Leavenworth, Kansas 66048

Re: Taxation--Sale of Property--Publication of Notice

Synopsis: In the publication of a list of properties subject to sale for nonpayment of taxes pursuant to K.S.A. 79-2303, the county treasurer may delete from the list upon second or third publication those properties upon which taxes have been paid subsequent to the first publication.

\* \* \*

Dear Mr. Reardon:

K.S.A. 79-2301 provides that all real estate upon which taxes have not been paid shall be subject to sale as provided in the act. Under K.S.A. 1974 Supp. 79-2302, the county treasurer must between the first and tenth of July in each year prepare a list

"of all real estate subject to sale, describing such real estate as the same is described of record in the office of the county clerk or the register of deeds of the county in which the real estate is situated, with an accompanying notice stating that such real estate described in said list will, on the first Tuesday of September next thereafter . . . be sold by him to the county for the amount of the delinquent taxes and legal charges due thereon."

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The list must be submitted to the newspaper chosen to publish the same on or before the first day of August of each year.

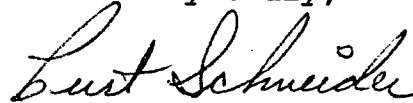
Publication is prescribed by K.S.A. 79-2303 thus:

"The county treasurer shall cause the said list with accompanying notice to be published in some newspaper published in said county, or if no newspaper be published in said county, then in one of general circulation in his county, once in each week for three consecutive weeks prior to the week in which is the day of sale . . . ."

The question which is raised is whether names and properties appearing in the first publication may be deleted from the list on second or third publication in those instances wherein the delinquent taxes and charges have been paid after the first publication. The statute, of course, is not explicit on the question. The proper construction to be given it in this instance should be guided, thence, by the purpose of the publication in the first instance. Publication is required in order to give formal and legal notice to the public, and to the owners of the affected properties, that the listed properties are subject to sale at the time indicated. The list to be published is of "all real estate subject to sale." If the delinquent taxes due on a particular property are paid after the first publication, that property is no longer "subject to sale," and there is no reason to continue publication of that property.

Thus, in my judgment, it is within the authority of the county treasurer to delete from the list upon second and third publication those properties which are no longer subject to sale by reason of the fact that delinquent taxes and charges due thereon have been paid after the first publication.

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj