

# OFFICE OF THE ATTORNEY GENERAL



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STATE OF ALABAMA

MAR 26 1980

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Tax Assessors - Assessments - Ad Valorem  
Taxes

§40-10-5, Code of Alabama 1975, Provides  
procedure for advertising for sale property  
assessed to "Owner Unknown."

§§40-10-22, 23 contain provisions regarding  
cost of advertising property for tax sale.

Property description which appears in  
assessment rolls to be used in advertising  
property for sale.

Dear Mrs. Leak:

In your request for an Opinion dated February 19, 1980, you ask whether you must advertise, prior to a tax sale, property which is assessed to "Current Owner Unknown"; who is to pay the cost of advertising said property; and whether the advertisement should contain the property description as the Assessor has it listed or as it is described on the deed.

You are correct in your belief that you must advertise property assessed to "Owner Unknown". Section 40-10-5 Code of Alabama, provides that:

"When any assessment is made to an "Owner Unknown", notice must be given by publication once a week for three successive weeks in a newspaper published in the county, or if no newspaper is published therein, by posting the same at the courthouse of the county for three weeks, substantially in the following form: "The State of Alabama. (here give name of county) County. To whom it may concern: Take notice that the tax collector has filed

"in my office a list of the delinquent taxpayers and of real estate upon which taxes are due, and therein is reported as assessed to "Owner Unknown" the following real estate, to-wit: (here insert descriptions). This is to notify you to appear before the probate court of this county, at the next term thereof, commencing on Monday, the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, then and there to show cause, if any you have, why a decree for sale of said real estate should not be made for the payment of the taxes assessed upon the same, plus fees and costs. (Here probate judge's signature) Judge of Probate."

Section 40-10-6, Code of Alabama 1975 provides that:

"The publication of notices under §§40-10-4 and 40-10-5 is governed by the provisions of this title relating to the publication of notices of sale of land, so far as the same may be applicable, and the tax collector may select the newspaper in which any notice under this Chapter shall be given, but all legal notices relating to the sale of land for taxes shall be inserted in the same newspaper for the tax year."

The procedure to be followed in the publication of notices for the sale of land are contained in §40-10-12, Code of Alabama 1975. Sections 40-10-22 and 23 contain provisions regarding the payment of the cost of advertising said notices as well as the notices for property assessed to "Owner Unknown." Section 40-10-22 provides that the State shall pay the costs of advertising when the land is bid in for the State. Section 40-10-23 provides that:

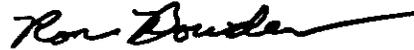
"The cost of advertising the part of such notices pertaining to lands purchased by others than the State shall be covered by the bids of the purchaser and collected by the collectors as part of the purchase money, but for the use of the owner or proprietor of the newspaper in which such notices were published, and shall be by the collector paid over to him on demand; and for such portions of such costs, as well as for the costs of advertising lands inserted in the notice by the mistake of the collector, such collector and the sureties on his official bond shall be liable to the owner or proprietor of such newspaper."

In answer to your third question, §40-10-2, Code of Alabama 1975, provides that the tax collector shall prepare a book containing a list of all delinquent properties, "describing the same in the same manner as it is

described in the assessment list." The same property description should be used in advertising property for sale as is used on the assessment list also.

Sincerely

CHARLES A. GRADDICK  
Attorney General  
By-



RON BOWDEN  
Assistant Attorney General

RB:jt