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May 25, 2004

Honorable Annette D. Skinner
Property Tax Commissioner
Post Office Box 1298
Columbiana, Alabama 35051

Tax Sales – Notices – Newspapers –
Shelby County

Notices of tax sales in Shelby
County must be published in the
Shelby County Reporter.

Dear Ms. Skinner:

This opinion of the Attorney General is issued in response to your request.

QUESTION

May the notices of sales of property for nonpayment of taxes in Shelby County be published in the *Birmingham - News Post Herald*, or must the notices be published in the *Shelby County Reporter*?

FACTS, LAW, AND ANALYSIS

The offices of the *Shelby County Reporter* are located in Columbiana, Shelby County, Alabama. The actual printing of the *Shelby County Reporter* is done outside of Shelby County. Some of the properties in Shelby County are located within the corporate limits of the municipality of Birmingham. The *Birmingham News - Post Herald* has a wider circulation than the *Shelby County Reporter*, and it would reach more delinquent taxpayers.

Section 40-10-12 of the Code of Alabama provides as follows for the notices that must be given before the sale of property for the nonpayment of property taxes:

Immediately at the end of any term of court at which any decree for sales of real estate for the payment of taxes is rendered, or as soon thereafter as practicable, the tax collector shall proceed to enforce such decree by sales of real estate ordered to be sold, and to this end shall give notice for 30 days before the day of sale, by publication for three successive weeks in some newspaper published in the county, or at least three weeks before the day of sale shall post a notice at the courthouse of his county and at some public place in the precinct in which the real estate is situated. . . .

ALA. CODE § 40-10-12 (2003). The requirements under section 40-10-12 are further refined by section 6-8-60 of the Code of Alabama, which relates to the publication of notices in general and which provides as follows:

[A]ll publications required by any law, mortgage or other contract to be published in a newspaper must be published in any newspaper printed in the English language which has a general circulation in the county, regardless of where the paper is printed, if the principal editorial office of the newspaper is located within the county and which newspaper shall have been mailed under the second class mailing privilege of the United States postal service from the post office where it is published for at least 51 weeks a year.

ALA. CODE § 6-8-60 (1993).

In *Vick v. Bishop*, 252 Ala. 250, 40 So. 2d 845 (1949), the term “publish” is explained as follows:

That such was the intent of the legislature is made clear when the distinction between ‘print’ and ‘publish’ is kept in mind. A

newspaper is published at the place where it is entered in the post office and where it is first put in circulation, and not at the place where it is printed (set up in type).

Id. at 253, 40 So. 2d at 848; *see also Holland v. City of Alabaster*, 595 So. 2d 483 (Ala. Civ. App. 1991).

At one time, section 6-8-60 of the Code required that newspaper notices be published in a newspaper printed in the county. The requirement, however, that it be printed in the county was deleted by Act 262. 1975 Ala. Acts No. 262, 4531 (3rd Ex. Sess.). Therefore, based on the facts presented, the *Shelby County Reporter* meets the requirements for the publication of the notices contained in section 40-10-12 of the Code. The *Birmingham News-Post Herald*, however, does not meet those requirements because its principal editorial office is not located within Shelby County as required by section 6-8-60.

CONCLUSION

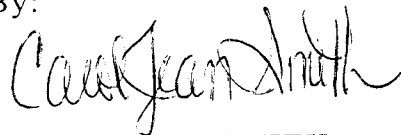
Notices of proposed sales for the nonpayment of property taxes in Shelby County must be published in the *Shelby County Reporter*.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Ron Bowden, Legal Division, Department of Revenue.

Sincerely,

TROY KING
Attorney General

By:



CAROL JEAN SMITH
Chief, Opinions Division

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