

THE OKLAHOMAN

Q&A with Sheppard F. Miers Jr.

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High court ruling imposes added notice for tax-auction property

Q: A recent Oklahoma Supreme Court ruling appears to impose additional notice requirements before the sale of real property due to property tax delinquency. What's this case?

A: In the case of *Crownover v. Keel*, the county treasurer sent a real property owner written notice of an intended sale to collect delinquent property tax owed. The notice was sent by certified mail in accordance with Oklahoma statutes. The law states that failure to receive such notice shall not invalidate the sale. The statutory notice was mailed by certified mail to the address the owner had provided when he bought the property, but he no longer lived there when the notice was sent. The letter was returned to the county marked "not deliverable as addressed unable to forward." The sale was made by the county and the prior owner who'd owed the taxes then learned about it from the purchaser. He challenged the sale in district court claiming he never received actual notice, and if notice had been mailed to his correct address he would've paid the taxes on the property and redeemed it.

Q: How did the courts rule?

A: The district court and intermediate appeals court ruled that sale was effective because notice was sent in accordance with the Oklahoma statutes. The prior owner petitioned for review by the Oklahoma Supreme Court, which heard the case and ruled in his favor because notice given under these circumstances wasn't sufficient to assure due process of law. The court said that when the letter sent by the county

came back indicating it wasn't received, the county should've done more to find the owner and give him actual notice.

Q: How does the Oklahoma ruling compare to rulings in other states?

A: The U.S. Supreme Court has decided a case involving the same issue with respect to a property tax sale in Arkansas. That case said if the county knows the owner never received the mailed notice, reasonable further steps to give actual notice are needed, including possibly sending notice by regular mail to the property address and posting the notice on the property. The Crownover decision in Oklahoma has raised concerns as to whether other tax sales in the state involving similar facts may be challenged and overturned. A legislative study done following the court's decision indicates changes in state statutory law may be proposed to help clarify what's required for a proper tax sale notice to be given to an owner in Oklahoma.

Q: What does this mean for Oklahomans who bought property at a tax auction?

A: For buyers intending to buy property at a tax sale in Oklahoma, the decision seems to make it advisable to get specific details as to whether actual notice has been given to an owner before the sale. They should try to get a written confirmation of what the county treasurer's office did to get a "you've got mail" (and your property is going to be sold) notice to the property owner. This should be done before buying the property. It could be by asking for a signed written statement from the county treasurer's office to confirm that either actual written notice sent by certified mail was received by the owner, or if not, exactly what additional reasonable steps (as suggested by the court cases) were taken to provide the owner notice and due process of law. The written statement should confirm that if the county treasurer's office learned the first mailed notice wasn't received by the owner then before the sale it had at least sent a second notice by regular mail to the address of the property addressed to occupant, posted notice on the property, and looked for contact information for the owner in other records filed or recorded in the county and any available current telephone directory.

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