

N.D.A.G. Letter to Herauf (Oct. 3, 1985)

October 3, 1985

Mr. William A. Herauf
Slope County State's Attorney
P. O. Box 866
Dickinson, ND 58601

Dear Mr. Herauf:

Thank you for your letter dated September 5, 1985, in which you asked the following question:

Does the County have to remove private property from the tax rolls if such property has been taken for public use only as [a road] easement and the owner retains all other real property rights.

I believe that the answer to your question is contained in N.D.C.C. § 57-02-10. It provides as follows:

57-02-10. INUNDATED AND HIGHWAY EASEMENT LANDS EXEMPT FROM TAXATION. The board of county commissioners is authorized and directed to removed from the tax rolls and to declare as exempt from taxation all inundated lands upon which the owner thereof has granted or hereafter shall grant a permanent easement to the United States of America, its instrumentalities, or agencies, for the purpose of constructing, maintaining, and operating water or wildlife conservation projects, and all lands upon which the owner thereof has granted or hereafter shall grant an easement for a highway or road right of way to the United States, its instrumentalities or agencies, or to the state or its political subdivisions, and such lands so removed from the tax rolls shall remain exempt until such time as such water or wildlife conservation projects or highway shall have been abandoned. Such lands shall not removed from the tax rolls and declared exempt from taxation until such time as the construction of such water or wildlife conservation projects or highway thereon shall have been completed.

The language of N.D.C.C. § 57-02-10 is clear. It is my opinion that a county does have to remove private property from the tax rolls if that property has been taken for public use only as an easement and the owner retains all other real property rights.

Sincerely,

Nicholas J. Spaeth

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