



Legal Briefs

After the tax collector deeds property to the town for nonpayment of property taxes the town meeting can authorize the board of selectmen to dispose of the property “as justice may require.” What does this mean?

RSA 80:80 provides in relevant part:

II. If the selectmen . . . are . . . authorized to convey [tax-deeded] property by deed, either a public auction shall be held, or the property may be sold by advertised sealed bids. The selectmen . . . shall have the power to establish a minimum amount for which the property is to be sold and the terms and conditions of the sale.

III. The selectmen may, by a specific article in the town warrant . . . be authorized to dispose of . . . tax deeded property in a manner than otherwise provided in this section, as justice may require.

IV. Such authority . . . to sell shall continue in effect for one year from the date of the town meeting . . . provided, however, that the authority to sell real estate acquired in default of redemption, or to vary the manner of such sale . . . as justice may require, may be granted for an indefinite period, in which case the warrant article . . . granting such authority shall use the words ""indefinitely, until rescinded" or similar language.

VI. For purposes of this section, the authority to dispose of the property "as justice may require" shall include the power of the selectmen . . . to convey the property to a former owner, or to a third party for benefit of a former owner, upon such reasonable terms as may be agreed to in writing, including the authority of the municipality to retain a mortgage interest in the property, or to reimpose its tax lien, contingent upon an agreed payment schedule, which need not necessarily reflect any prior redemption amount. . . .

There is some question whether the statute intends to authorize town meeting to authorize the board of selectmen to determine what justice requires in all future situations, or intends only to grant the town meeting, itself, the power to decide what justice requires in particular cases. Although Paragraph III speaks of a “specific warrant article,” Paragraph IV, which was added in 1993, implies that the statute intends to delegate complete discretion to the selectmen by allowing authority to last “indefinitely, until rescinded.” Section VI, added in 1997, provides that “as justice may require” includes reconveyance to the former owner, but it does not say that reconveyance is the only option. *Dodge v. Tilton*, 128 N.H. 110 (1986), does not address the issue directly, but it seems to take for granted that the statute allows the selectmen to decide what justice requires.

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