

# MAINE STATE LEGISLATURE

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October 23, 1945

To Edwin B. Jonah, Esquire, Eastport  
Re: Form of Deed to be given by City.

I have your letter of October 15th stating that you have been informed that the Attorney General in his official capacity has advised the city clerk or city manager of Eastport that the city should not or cannot give a warranty deed in the sale of property acquired by foreclosure of tax liens and where a quitclaim deed has been delivered to the city by a mortgagor tax payer of all his right, title and interest in said property and the city is and has been in actual control of said property and collecting the rents of same for some time, and that the citizens of Eastport would not be bound or holden by the covenant of warranty in its deed.

I do not know who informed you in regard to this ruling by the Attorney General, nor which Attorney General made the ruling. No such ruling has been made since I have been Attorney General, and I cannot find any in the biennial reports of my predecessor in the years from 1941 to 1944, inclusive.

You state that if you have been correctly informed, you would like to have me tell you where you can find the law to that effect. I call your attention to Section 20 of Chapter 154 of the Revised Statutes of 1944, which provides:

"A deed of release or quitclaim of the usual form conveys the estate which the grantor has and can convey by a deed of any other form."

You cite McQuillin on Municipal Corporations as follows:

"A municipality may include in its deeds covenants of general warranty; and a resolution authorizing the mayor to execute a deed authorizes him to insert such a covenant."

I cannot conceive of a city council's authorizing the mayor or any other city official to execute a warranty deed to real estate acquired by foreclosure of tax liens. If the city council did authorize many such deeds and they were given by the city and suits were brought on said covenants of general warranty, I am afraid that the city would be bankrupt within a short time.

My reason for saying this is that many of these foreclosure tax liens have been found to be void by reason of failure of the officers to take the necessary steps provided by statute. I would not advise any city, if I were its solicitor, to give warranty deeds on property acquired by the city by foreclosure tax liens.

Ralph W. Farris  
Attorney General

RWF:c