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New Real Estate Standard

Dicta Editorial Board

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the jury will completely disregard the testimony and award either what they think the property is worth or what they think the condemnor can afford to pay.

A word of advice for the lawyer representing an impecunious client, unable to enjoy the luxury of submitting a case to the scrutiny of the Supreme Court, is that Major Goodman has recently taken the position that under the authority of *Wassenich v. City and County of Denver*, 67 Colo. 456, 186 P. 533 (1919) at least in Denver, you can appear in a condemnation case without paying your \$5 docket fee. So, all that is required to get the best guess of the trial judge is that the lawyer must have the competitive spirit, and he does not now have to have \$5 to go along with it.

NEW REAL ESTATE STANDARD

At a meeting held on July 15, 1952, the Real Estate Standards Committee of the Denver Bar Association promulgated Standard No. 76 relating to inheritance tax liens. Due to recent opinions of the Colorado Supreme Court, the Committee believed that a note must be appended to present Standard No. 47. Standard No. 76 and the Note to Standard No. 47 are set out below and will be presented to the members of the Colorado Bar Association for ratification at the 1952 Convention next October.

STANDARD NO. 76

INHERITANCE TAX—LIMITATION OF LIEN

Problem: The record shows that more than 15 years have elapsed since the date of the death of a decedent owning real estate. No receipt for payment of Colorado Inheritance Tax or waiver or release thereof appears of record. Should an attorney, relying on Section 7, Chapter 145, Session Laws of 1945, render an opinion showing the title free and clear of any lien for Colorado Inheritance Tax accruing as the result of the death of said decedent?

Answer: Yes.

NOTE TO FOLLOW STANDARD NO. 47

In connection with this standard, you are referred to the recent Colorado cases of *Mitchell v. Espinosa* (243 P. 2d 412) and *Johnson v. McLaughlin* (242 P. 2d 812), both decided March 17, 1952. These cases concern a severance of mineral rights prior to a tax sale of land and prior to the issuance of a Treasurer's Deed thereon, and hold that such mineral rights do not pass by Treasurer's Deed unless separately assessed and sold.

In each case, the Treasurer's Deed in question was the source of title of the person in possession of the land, and one of the deeds had remained of record approximately nineteen years and the other deed approximately seventeen years. In each instance, the tax sale and the Treasurer's Deed based thereon did not except any mineral rights.

The court in its opinions made no reference to the limitation statute on which real estate Standard No. 47 is based (Sec. 146, Chap. 40, C.S.A. '35 as amended by Session Laws of 1945, Chap. 101).