

RONNY LOTT
MADISON COUNTY CHANCERY CLERK

MEMORANDUM

TO: Madison County Board of Supervisors

FROM: Ronny Lott, Chancery Clerk

DATE: January 24, 2017

RE: Request to Void August 2015/Homestead Chargeback
James Allen Bolstad
Parcel # 083D-20-088

I am requesting you allow me to void a homestead exemption chargeback from the August 29, 2016 Tax Sale on parcel no. 083D-20-088/00.00 against James Allen Bolstad. This parcel was purchased by Cameron and Jessica Barre in June 2015. The deed to the Barre's is on file in my office with a recording date of June 24, 2015, before the chargeback was received from the State Tax Commission and recorded in my office on August 12, 2015.

Pursuant to Attorney General Opinion and Miss. Code Ann. § 27-33-37(I) no lien may attach against such subsequent purchasers, although the sale and the lien is valid as a personal liability of the original assessed owner.

Therefore, I respectfully request that you authorize me to void the August 29, 2016 tax sale on parcel number 083D-20-088/00.00 against James Allen Bolstad and reverse said chargeback.

Homestead Notice of Adjustment

477/78

DEPARTMENT OF
REVENUE
STATE OF MISSISSIPPI



Date: February 24, 2015
Letter ID: L1507254400
Period: December 31, 2014
Account #: 1027-8683



CYNTHIA PARKER
MADISON COUNTY BOARD OF SUPERVISORS
PO BOX 404
CANTON MS 39046-0404

BOLSTAD JAMES ALLEN
121 BAINBRIDGE BEND
CANTON MS 390460000

Reimbursement Year: 2014
Parcel#: 083D-20 -088/00.00
School District: Madison County Schools

BOOK 3241 PAGE 701 DOC 79 TY W
INST # 764149 MADISON COUNTY MS.
This instrument was filed for
record 8/12/15 at 2:16:54 PM
RONNY LOTT, C.C. BY: CMH D.C.

This is notice that the Department is making an adjustment to the Countys Homestead Exemption reimbursement. The above applicant is not qualified for Homestead Exemption.

35. Applicant or applicant's spouse has failed to comply with the income tax laws of Mississippi. §27-33-63 (2)

If the applicant has any questions about the income tax debt, they may review their account information online through the Taxpayer Access Point at www.dor.ms.gov. If the applicant has any questions about residency status or does not have internet access, they may call (601) 923-7700 for assistance.

Please complete the enclosed Notice Certification and forward to the appropriate offices as directed.

You may provide a copy of this notice to the applicant. Please note that the applicant must file any objection to this action with the Clerk of the MADISON County Board of Supervisors (Chancery Clerk's office), not the Department. The applicant has 30 days from the date of this letter to file the objection with the Clerk. If not filed in the time provided, the decision to disallow the applicants homestead exemption is final.

Sincerely,
Tax Administrator

Enclosure: Notice Certification

Notice Certification

Date: February 24, 2015
Letter ID: L1507254400
Period: December 31, 2014

This certifies that the Board of Supervisors for MADISON County considered the Notice of the Department of Revenue of its disallowance of the Homestead Exemption for the below applicant. The Board entered into its minutes its determination concerning whether to accept or object to this action.

Applicant Name	Parcel #	School District
BOLSTAD JAMES ALLEN 121 BAINBRIDGE BEND CANTON MS 390460000	083D-20 -088/00.00	Madison County Schools

BOOK 3241 PAGE 702
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Agree and Accept

The Board has met and entered into its minutes an order directing that the MADISON County Tax Collector re-assess and list the above property as subject to all taxes. The tax is due and payable on or before the next February 1, following the date of this notice.

So certified and confirmed by the Clerk of the MADISON Board of Supervisors,

Clerk _____

Benny Lath, CC.

(Board Clerk Signature)

by Cheryl Houston, DC.

The meeting of the MADISON Board of Supervisors was held _____

7/20/15

(Enter date)



If in agreement, a copy of this completed document must be provided to the MADISON County Tax Collector.

Disagree and Object

The Board has met and entered into its minutes an order of its intent to file an objection with the Department of Revenue concerning this action.

So certified and confirmed by the Clerk of the MADISON Board of Supervisors,

Clerk _____

(Board Clerk Signature)

The meeting of the MADISON Board of Supervisors was held _____

(Enter date)

If in disagreement, a copy of this completed document must be provided to the Department of Revenue, Office of Property Tax. A copy of the order of the Board of Supervisors providing the reason for the objection must be attached along with any documentation necessary to support the objection.

HARRELL & RESTER

Attorneys at Law
1700 West Government Street, Suite 102
Brandon, Mississippi 39042
Telephone & Facsimile (601) 825-7236

Fred M. Harrell, Jr.
Email: fred@harrellrester.com
Robert R. Rester, Jr.
Email: rusty@harrellrester.com

Mailing Address:
Post Office Box 1825
Brandon, Mississippi 39043

January 13, 2017

Ms. Kay Pace
Madison County Tax Collector
P.O. Box 113
Canton, MS 39046

Re: Cameron and Jessica Barre
121 Bainbridge Bend
Canton, MS 39046
Parcel No.: 083D-20-088/00.00

Dear Ms. Pace:

In June, 2015, Mr. and Mrs. Barre purchased a home in Madison County. The Warranty Deed was filed of record on June 24, 2015, in deed book 3221 at page 154. A copy of the Warranty Deed is enclosed.

On August 20, 2015, there was a homestead chargeback filed in book 3241 at page 791 for the 2014 tax year associated, apparently, with income tax issues of the prior owners, James A. Bolstad and wife, Kelli S. Bolstad. I find no notice of record of any potential issue regarding the Bolstads' income taxes as of the date of this purchase.

The chargeback was assessed against the property on the 2015 tax roll, receipt no. 990301, which subsequently sold on August 29, 2016.

Mr. and Mrs. Barre have just recently been advised of all of the above by your office and have contacted me to review the matter. It is my opinion, and I respectfully request, that the chargeback should be removed from this property and the tax sale voided by the Madison County Board of Supervisors.

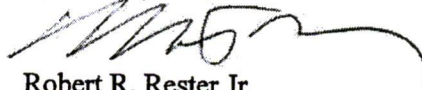
Section 23-33-37(1) clearly provides that such a reassessment shall not become a lien on the property where the property was conveyed to a bonafide purchaser for value without notice prior to the filing of a notice of rejection in the land deed records. Numerous Mississippi Attorney General Opinions have addressed the issues and are in accord with the statute. See enclosed statute and attorney general opinions.

Letter to Kay Pace
January 13, 2017
Page Two

Please review the enclosed and advise me as to how you will address these issues as soon as possible. I appreciate your assistance in resolving this matter.

Thanking you in advance, I am

Sincerely yours,



Robert R. Rester Jr.

RRRjr/ja

Enclosure

BOOK 3221 PAGE 154 DOC 01 TY W
INST # 760419 MADISON COUNTY MS.
This instrument was filed for
record 6/24/15 at 10:37:42 AM
RONNY LOTT, C.C. BY: KAA D.C.

Indexing Instructions:
Lot 78, Bainbridge, Phase II,
Madison County, Mississippi

Prepared by and return to:
HARRELL & RESTER
Attorneys at Law
Post Office Box 1825
Brandon, MS 39043
601-825-7236

112-120

STATE OF MISSISSIPPI
COUNTY OF MADISON

WARRANTY DEED

FOR AND IN CONSIDERATION of the sum of Ten and No/100 (\$10.00) Dollars, cash in hand paid and other good and valuable considerations, the receipt and sufficiency of all of which is hereby acknowledged, we,

JAMES A. BOLSTAD
and wife KELLI S. BOLSTAD
121 Bainbridge Bend
Canton, MS 39046
217-898-5397

do hereby sell, convey, bargain and warrant to

CAMERON LANCELOT BARRE
and wife JESSICA CLARKE BARRE
121 Bainbridge Bend
Canton, MS 39046
601-594-8367

as joint tenants with full rights of survivorship and not as tenants in common, the following described real property, situated and located in Madison County, State of Mississippi, more particularly described as follows:

Lot 78, Bainbridge, Phase II, a subdivision according to the map or plat thereof which is on file and of record in the office of the Chancery Clerk of Madison County at Canton, Mississippi in Plat Cabinet E at Slides 29B and 30A, reference to which map or plat is hereby made in aid of and as a part of this description.

This conveyance is subject to all easements, roadways, servitudes, zoning ordinances, restrictive covenants, building restrictions of record and oil, gas and other mineral reservations, exceptions, conveyances and leases of record and all obvious facts, circumstances and conditions as would be revealed from a reasonable inspection of the subject property.

Ad valorem taxes for the current year shall be prorated between the parties as of the date of deed execution.

WITNESS MY SIGNATURE on this the 22 day of June, 2015.



JAMES A. BOLSTAD

WITNESS MY SIGNATURE on this the 22nd day of June, 2015.



KELLI S. BOLSTAD

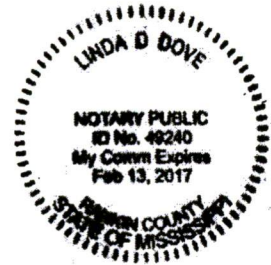
STATE OF MS
COUNTY OF Rankin

PERSONALLY APPEARED BEFORE ME, the undersigned authority of law in and for the above styled jurisdiction, the within named, JAMES A. BOLSTAD, who acknowledged to me that he signed, executed and delivered the above and foregoing Warranty Deed on the day and year therein mentioned as his own free and voluntary act and deed.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE, on this the 22nd day of June, 2015.

My Commission Expires:

Linda Dove
NOTARY PUBLIC



STATE OF MISSISSIPPI
COUNTY OF Rankin

PERSONALLY APPEARED BEFORE ME, the undersigned authority of law in and for the above styled jurisdiction, the within named, KELLI S. BOLSTAD, who acknowledged to me that she signed, executed and delivered the above and foregoing Warranty Deed on the day and year therein mentioned as her own free and voluntary act and deed.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE, on this the 22nd day of June, 2015.

My Commission Expires:

Linda Dove
NOTARY PUBLIC



Mississippi Statutes

Title 27. TAXATION AND FINANCE

Chapter 33. AD VALOREM TAXES-HOMESTEAD EXEMPTIONS

Article 1. GENERAL PROVISIONS

Current through 2015 Regular Session

§ 27-33-37. Duties and powers of the board of supervisors

The board of supervisors shall perform the duties imposed by this article on the members, the president, and the board as a unit, with the powers and authority granted and as necessary for the proper administration of the article, and specifically as set out in this section.

(a)

At each regular monthly meeting the president of the board shall require of and receive from the clerk of the board all applications for homestead exemption having come into his hands as provided in Section 27-33-35 of this article.

(b)

As soon as practicable after convening, at each regular monthly meeting, the board, in the light of public records, personal knowledge, information given by the assessor, and any other reliable source of information that may be available, shall examine each application which has been delivered to the clerk by the tax assessor, and pass upon its correctness and the eligibility of the property and of the person, under the law, as fully as may be done before final approval, after the land roll has been finally approved of minute record; and the board shall carefully consider and construe the relationship between buyers and sellers of property on which homestead exemption is sought, and the terms, conditions, rate of interest, payments made and to be made, of all conveyances doubtful in such respect. One (1) member of the board shall check each application prior to the time for final approval, and shall indicate if it should be approved, disapproved, or if it requires further investigation.

(c)

If any application be found incorrect or incomplete in any particular required by law, or deficient in any respect, the board shall give notice immediately to the applicant, in writing, by mail, advising the applicant of the defect and the nature thereof, so that the applicant may correct it, if it can

be corrected, before the time for final action by the board.

(d)

The year in which the land roll is made, at the meeting of the board of supervisors at which the certificate of the department finally approving the land assessment roll is received and entered in its minutes, and at the September meeting the board of supervisors shall complete the consideration of each and every application for homestead exemption; and all applications, or claims, not clearly within the provisions and requirements of this article shall be disallowed by the board. Where it appears to the board, in a case or cases involving transactions completed after July 1, 1938, that conveyances have been made without bona fide consideration, and liens taken with questionable consideration or values, or where the payments on the principal have not been made as required, or there is evidence of any kind that the transactions were not bona fide in every particular, and were entered into for the purpose of obtaining a homestead exemption contrary to the letter and spirit of law, the application shall be disallowed.

(e)

Each application shall be plainly endorsed "allowed" or "disallowed" as the case may be, over the date, and the signature of the president of the board, who may use a facsimile stamp for the purposes; and, in the space provided on the application for that purpose, there shall be entered for each assessment, (1) the page and line number of the assessment on the land roll, (2) the total number of acres, (3) the total assessed value of the land, (4) the assessed value of the buildings, (5) the total assessed value of the exempted land and buildings, (6) the assessed value of the land and buildings not exempted, (7) the name of the road district, if any, in which the property lies, and (8) the name of the school district in which the property lies.

(f)

All applicants, whose applications are finally disallowed by the board, shall be given notice immediately by the board, in writing, by mail. Petitions and objections by applicants for correction or amendment shall be heard by the board at the next regular meeting of the board after notice that the application was finally disallowed.

(g)

It shall not be necessary that an order be entered on the minutes of the board which allows or disallows an application as provided by paragraph (f) of this section, unless there be a division among the board members, then

an order shall be entered on the minutes recording the aye and nay vote.

(h)

The board of supervisors shall have, and is hereby given, the power and authority to summon and examine witnesses under oath, to examine records, and to do any and all other things necessary and proper to ascertain the facts with respect to any application, or claim, for homestead exemption presented to it. The board shall disallow any application for homestead exemption when it is found that the person or the property was ineligible, after the supplemental roll is approved and within one (1) year after that in which the application was executed; and it shall correct, likewise, any and all errors found in the supplemental roll. When an application is disallowed by the board after the supplemental roll has been approved, it shall give notice and proceed as in the case of a rejection by the department. A certified copy of the order finally disallowing an application, and making a correction in the supplemental roll must be adopted before the last Monday of August and shall be received by the department no later than September 15 of the year following the year in which the supplemental roll was made.

(i)

At the first regular or special meeting of the board of supervisors held after the supplemental roll, required by Section 27-33-35 of this article, has been made, it shall examine the roll, and if found correct shall enter in the minutes an order approving the roll; and the applications disallowed shall be listed in the minutes by name and amount, with the reason for disallowance. A copy of the order shall be attached to the supplemental roll and sent to the department.

(j)

All applicants whose applications are rejected for reimbursement of tax loss by the department, after having been allowed by the board, shall be given notice immediately by the board, in writing, by mail, with the reasons for the rejection by the department, and the applicants shall have thirty (30) days in which to file objections thereto, which objections shall be heard by the board at the same or the next regular meeting after objections are filed by the applicant. If the board finds that in its opinion the application should be allowed, it shall continue the matter in its record, and present its objection to the rejection, with evidence in support of it, to the department. All applications finally rejected by the department or by the Board of Tax Appeals shall be disallowed by the board, and entered of minute record.

(k)

When the board shall receive notice from the department that an application for homestead exemption has been rejected by the department for reimbursement of tax loss, the board shall proceed in the manner prescribed in paragraph (j) of this section. Upon the hearing of objections of the applicant, if the board finds that the application should be disallowed, it shall so order and notify the department that its rejection has been "accepted." If the board is of the opinion that the application should be allowed, it shall notify the department that it objects to the rejection of the application, and shall submit, in writing, its reasons for the "objection." All such matters between the board and the department may be concluded by correspondence, or by personal appearance of the board, or one or more of its members, the clerk, or the assessor, or by a representative of the department present at any meeting of the board. If upon consideration of the objection, the department determines that the application for homestead exemption should be allowed; it will reverse the adjustment resulting from the department's rejection of the application and advise the board of this reversal. If upon consideration of the objection, the department determines that it had properly rejected the application for homestead exemption; it shall advise the board that its objection has been denied by the department. Within thirty (30) days from the date of the notice from the department advising the board that its objection had been denied, the board can appeal this denial of the objection by the department to the Board of Tax Appeals. The decision of the Board of Tax Appeals on the appeal by the board from the denial by the department of the board's objection to the department's rejection of an application for reimbursement of the tax loss shall be final, and the board and the department will either allow or disallow the application based on the decision of the Board of Tax Appeals.

(l)

It shall be the duty of the board, and it is hereby given the power to order the tax collector, by an order entered on its minutes, to reassess, and list as subject to all taxes, the property described in an application for homestead exemption and as entered on the regular land assessment roll, under the following circumstances:

(i)

When an application for homestead exemption is finally rejected by the department for reimbursement of tax loss which has been regularly approved by the board and entered on the supplemental roll; or

(ii)

Where an application has been wrongfully allowed by the board.

When any property has been reassessed as herein provided, all additional taxes due as a result of such reassessment shall become due and be payable on or before the first day of February of the year following that in which notice to make the reassessment is issued; and if not paid, the tax collector shall proceed to sell the property for the additional taxes in the same manner and at the same time other property is sold for the current year's taxes, or he may collect the taxes by all methods by which other taxes on real estate may be collected. Provided, no penalty or interest shall be applied for any period prior to February 1 of the year following that in which the reassessment is made, and provided further, that such reassessment shall not take effect or become a lien on the property of bona fide purchasers or encumbrancers for value without notice thereof, unless there shall have been filed prior to their attaining such status a notice of rejection in the chancery clerk's office in the county in which the property is located, which notice shall be recorded and indexed as are deeds; but the applicant shall in all cases remain personally liable for such reassessment.

(m)

The board of supervisors may employ the clerk of the board to collect and assemble data and information and to perform the services required of the board by paragraph (e) of this section and to make investigations required in connection with the duties of the board in determining the eligibility of homestead exemptions and to perform all other ministerial duties required of the board in connection with administering the Homestead Exemption Law and as directed by the board. If the board employs the clerk, he shall be paid out of the general county fund as follows: for the first two thousand (2,000) applications he may, in the discretion of the board, be paid not exceeding One Dollar (\$ 1.00) each, for the next two thousand (2,000) applications he may be paid not exceeding Seventy-five Cents (75 cent(s)) each, for the next two thousand (2,000) applications he may be paid not exceeding Fifty Cents (50 cent(s)) each, for the next two thousand (2,000) applications he may be paid not exceeding Thirty-five Cents (35 cent(s)) each, all over the above number he shall be paid not exceeding Twenty-five Cents (25 cent(s)) each. The board shall require the assessor to correctly describe all lands included in any applications for homestead exemption, and to assess all such lands on the land assessment roll, separately from other lands, as required by this article; and to present to the board all proper and necessary notices for the correction of land descriptions on the roll, changes in ownership, and for increases and decreases in the assessments of exempt homes.

Cite as Miss. Code § 27-33-37

Source: Codes, 1942, § 9732; Laws, 1940, ch. 127; Laws, 1942, ch. 123; Laws, 1946, ch. 261, § 18; Laws, 1958, ch. 211; Laws, 1966, ch. 642, § 1; Laws, 1968, ch. 361, § 33; Laws, 1984, ch. 453, § 15; Laws, 1988 Ex Sess, ch. 14, § 19; brought forward, Laws, 1991, ch. 390, § 5; Laws, 1991, ch. 602, § 6; Laws, 1993, ch. 513, § 6; Laws, 1997, ch. 345, § 1; Laws, 2009, ch. 492, § 66, eff. 7/1/2010.

No. 2006-00480.

**Mississippi Attorney General Opinions
2006.**

Current through 2006 Legislative Session

No. 2006-00480.

DOCK 2006-00480

September 29, 2006

DOCN 000017242

DOCK 2006-00480

AUTH Reese Partridge

DATE 20060929

RQNM Kenneth Harmon

SUBJ Taxes

SBCD 246

Kenneth Harmon, Esq. Brunini, Grantham, Grower and Hewes, PLLC P.O. Box Drawer 119

Jackson MS 39205

Re: Homestead exemption

Dear Mr. Harmon:

Attorney General Jim Hood has received your request for an official opinion and has assigned it to me for research and response. Your letter, which has been edited for brevity, reads as follows: Our question concerns the situatio where (1) the original landowner, whose homestead exemption application has been disallowed (hereinafter referred to as "A"), conveys the property to a bona fide purchaser for value without notice of the reassessment (hereinafter referred to as "B") prior to the filing of the notice of rejection in the land records in the Chancery Clerk's office, and (2) subsequent to the filing of the notice of rejection, B conveys the property to a third party(hereinafter referred to as "C"). Since B acquired the property and recorded his deed prior to the filing of the notice of rejection, under the terms of the statute the reassessment would not take effect or become a lien on the property of B. This has been confirmed in (cites to three previous Attorney General opinions).

However, when C acquired the property, the notice of rejection was of record and, thus, C had notice of the disallowance of the original landowner's homestead exemption and of the Tax Collector's reassessment. Therefore, it would appear that C would not qualify as a bona fide purchaser for value without notice. Thus the language of the statute on its face would appear to impose the reassessment as a lien on the property at the time title is transferred from B (a bona fide purchaser for value without notice) to C (a purchaser with constructive notice of the recorded notice of rejection).

The practical effect, therefore, is that, despite the language of the statute, B has to pay the reassessed taxes at the closing of B's sale of the property to C because, if B refuses to do so, then C will not purchase the property since the reassessment would be lien on the property once the title vests in C. This result, however appear to be contrary to the intent of the statute.

We, therefore, would request an opinion on the following issues regarding the construction of this statute:

- (1) Does C stand in the shoes of B and, thus, qualify as a bonafide purchaser without notice?
- (2) Under the language of the statute, does the purchase of the property by a bona fide purchaser for value prior to the filing of the notice of rejection prevent the homestead reassessment from ever becoming a lien on the property even in the event the property is sold to a third party after the filing of the notice of the rejection?
- (3) If the answer to Question 2 is yes, is the Chancery Clerk authorized to file a notice in the land records stating that the reassessment lien evidenced by the notice of rejection is void and no longer a lien on the property, since the property was purchased by a bona fide purchaser for value without notice prior to the filing of the notice of rejection, in order to remove the notice of rejection as a cloud on the title?
- (4) If the Answer to Question 2 is yes and B has sold the property to C and paid the reassessed taxes to the Tax Collector at the closing of the sale to C, can the county reimburse B for the amount paid?

The provisions of Miss. Code Ann. Section 27-33-37 (l) (1972) read in pertinent part as follows:

(l) It shall be the duty of the board, and it is hereby given the power to order the tax collector, by an order entered on its minutes, to reassess, and list as subject to all taxes, the property described in an application for homestead exemption and as entered on the regular land assessment roll, under the following circumstances:

- (i) When an application for homestead exemption is finally rejected by the commission for reimbursement of tax loss which has been regularly approved by the board and entered on the supplemental roll; or
- (ii) Where an application has been wrongfully allowed by the board.

When any property has been reassessed as herein provided, all additional taxes due as a result of such reassessment shall become due and be payable on or before the first day of February of the year following that in which notice to make the reassessment is issued; and if not paid, the tax collector shall proceed to sell the property for the additional taxes in the same manner and at the same time other property is sold for the current year's taxes, or he may collect the taxes by all methods by which other taxes on real estate may be collected. Provided, no penalty or interest shall be applied for any period prior to February 1 of the year following that in which the reassessment is made, and provided further, that such reassessment shall not take effect or become a lien on the property of bona fide purchasers or encumbrancers for value without notice thereof, unless there shall have been filed prior to their attaining such status a notice of rejection in the chancery clerk's office in the county in which the property is located, which notice shall be recorded and indexed as are deeds; but the applicant shall in all cases remain personally liable for such reassessment.

In MS AG Op., Chapman (January 22, 1999) we stated that pursuant to Section 27-33-37(l), if a new owner of a residence is a bona fide purchaser thereof for value and without notice of the rejection of the homestead exemption application upon said property, then the lien for additional taxes due to rejection of the application will neither attach to the property nor impose personal

liability upon the new owner.

It is our opinion that protection of original buyer "B", who was a bona fide purchaser without notice of the lien, extends to all subsequent purchasers of the property, even where, like purchaser "C", they have notice of the lien. Any other result would defeat the intent of the statute.

Therefore, the answers to all your questions, is Yes.

Please let me know if you would like to discuss this matter or if I can be of further assistance.

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By: Reese Partridge Special Assistant Attorney General

Tyner, 031794 MSAGO, AGO 94-116 /**/ div.c1 {text-align: center} /**/

Thomas W. Tyner, Esquire

AGO 94-116

No. 94-0116

Mississippi Attorney General Opinions

March 17, 1994

Thomas W. Tyner, Esquire

Attorney for City of Petal

Post Office Box 564

Petal, Mississippi 39465

RE: REJECTION OF HOMESTEAD EXEMPTION

Dear Mr. Tyner:

Attorney General Mike Moore has received your letter of request and has assigned it to me for research and reply. Your letter states:

"Enclosed please find a copy of a letter from Karen Mooney to the City of Pearl dated February 10, 1994; and a copy of attorney James Belue's letter to Mrs. Mooney dated January 12, 1994.

As you will note from review of the enclosed letters, subsequent to an assessment, but prior to rejection of a homestead exemption application, Mrs. Mooney became the purchaser of certain real property originally owned and assessed to Frankie and Susan Bryant.

When the property was reassessed, subsequent to the rejection of the application for homestead filed by Frankie and Susan Bryant, Mrs. Mooney's mortgage holder, Magnolia Federal, paid the sums due as a result of the rejection of the homestead application.

I have reviewed Section 27-33-37 of the Mississippi Code of 1972, as well as the amendment which became effective on July 1, 1991, and have some concerns regarding the application of the statute to the facts of this matter.

Does the City of Petal, in its own right, and in its capacity as tax collector for the Petal Municipal Separate School District, with added territories, have a right to reassess this property as a result of the rejection of the homestead application, and impose a lien upon this property for the collection of taxes, interest and penalty as a result of the rejection of the homestead application? My principal concern deals with the language of Section 27-33-37 of the Mississippi Code of 1972, effective prior to July 1, 1991, and similar language in the amended statute, which basically states as follows:

Provided, no penalty or interest shall be applied for any period prior to February 1st of the year following that in which the reassessment is made, and provided further, that such reassessment shall not take effect or become a lien on the property of bona fide purchasers or encumbrances for value without notice thereof, unless there shall have been filed prior to their attaining such status a notice of rejection in the Chancery Clerk's office in the county in which the property is located, which notice shall be recorded and indexed as are deeds; but the applicant shall in all cases remain personally liable for such reassessment.

Given the facts of this matter, as outlined in the letters of Mrs. Mooney and attorney Belue, it

is apparent that the Mooneys were 'bona fide purchasers . . . for value without notice thereof . . .'

Under these circumstance, is the City of Petal, and the City of Petal on behalf of the Petal Municipal Separate School District, with added territories, left with only one remedy to collect these taxes, i.e., to sue the original applicants for homestead exemption, Frankie and Susan Bryant, or can a lien be imposed on the real property involved, and collected as other tax assessments?"

In response to your inquiry please see the enclosed copy of an opinion addressed to Mr. Billy V. Cooper, dated October 5, 1987 in which we addressed the question posed in your letter. In that opinion we cited and quoted section 27-33-37(1) and said that "if the new owner is a bona fide purchaser for value without notice, the lien for the additional taxes will not attach to the property or impose a personal liability on the new owner. Rather, the previous owner and homestead applicant, . . . shall be personally liable for the reassessment".

Sincerely,

Mike Moore Attorney General

Phil Carter Assistant Attorney General.