

**RONNY LOTT**  
**MADISON COUNTY CHANCERY CLERK**

**MEMORANDUM**

TO: Madison County Board of Supervisors

FROM: Ronny Lott, Chancery Clerk

DATE: August 9, 2021

RE: Void 2020 Tax Sale  
Livingston Property Owners Association  
Parcel Nos. 081E-16-001/02.23 and 081E-16-001/02.37

I am requesting you allow me to void parcel nos. 081E-16-001/02.23 and 081E-16-001/02.37 August 31, 2020 tax sale against Livingston Property Owners Association. Livingston Property Owners Association entered into a 16<sup>th</sup> Section Lease Contract with the Madison County School District February 3, 2020.

Pursuant to several Attorney General Opinion's , the latest being MS Ag. Op., Harpole (April 10, 1998), "a new lease holder is not responsible for taxes not paid by a prior lessee."

Therefore, I respectfully request that you authorize me to void the August 2020 tax sale on parcel numbers 081E-16-001/02.23 and 081E-16-001/02.37 and direct the Tax Collector to collect the 2020 taxes currently due.

August 3, 2021

Mr. Norman A. Cannady, Jr.  
Madison County Tax Assessor  
125 West North St.  
Canton, MS 39046

**John S. Hooks**  
Admitted in Mississippi  
and District of Columbia  
Direct: 601.292.0708  
E-Fax: 601.944.9037  
john.hooks@arlaw.com

Mr. Ronny Lott  
Madison County Chancery Clerk  
146 West Center St.  
Canton, MS 39046

2019

2019

Re: Property Taxes for Parcel Nos. 081E-16-001/02.23 and 081E-16-001/02.37

Dear Mr. Cannady and Mr. Lott:

Our firm represents the Madison County School District. We write regarding the property taxes due for the current year on the referenced parcels.

The referenced parcels are sixteenth section lands leased to Livingston Property Owners Association (the "Association"). The Association entered into the lease on February 3, 2020, recorded at Book 3854, Page 445, Inst. # 891400 Madison County MS.

Earlier this week, Barbara Heckenberger, Treasurer for the Association visited the Tax Assessor's office to inquire as to why the Association had not received a tax bill for the referenced parcels. She was informed that the accounts for both parcels are labeled "see chancery clerk \*severe\* unredeemed tax sale." Ms. Heckenberger was unable to pay the current year's taxes on the referenced parcels.

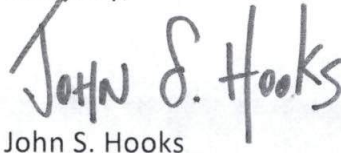
We write to request the Association be presented with a tax bill for the current year on the referenced parcels and be allowed to pay the current year's taxes due. To the extent the County seeks to hold the Association liable for the past due taxes, the Association is not liable for amounts owed by a prior lessee. Further, it is not the responsibility of the Association or the District to collect unpaid taxes from a prior lessee. The Attorney General has opined on issue several times, advising that a "new lease holder is not responsible for taxes not paid by a prior lessee." MS Ag. Op., Harpole (April 10, 1998). *See also*, MS Ag. Op., Barbour (June 23, 1987); MS Ag. Op., Griffith (February 16, 1983). Copies of these opinions are attached.

Norman A. Cannady, Jr.  
Ronny Lott  
August 3, 2021  
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At this point, the District and the county are losing tax dollars by the Association being prevented from paying the current taxes due on these parcels. The District asks that the Association be allowed to pay these taxes as soon as possible.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in black ink that reads "John S. Hooks". The signature is written in a cursive, slightly slanted style.

John S. Hooks

JSH/jbd  
Enclosures

Cc: Ms. Ashley Browning, Sixteenth Section Lands Manager  
Madison County School District

Office of the Attorney General

State of Mississippi

Opinion No. 98-0199

April 10, 1998

Re: Tax Sales of Sixteenth Section Lands

Ms. Sheila Harpole Crawford

Chancery Clerk, Leake County

P. O. Box 72

Carthage, Mississippi 39051

Dear Ms. Crawford:

Attorney General Mike Moore has received your request for an Official Opinion from this office and has assigned it to me for research and reply.

We answer your questions *seriatim*. All references to Sections hereinafter are references to the *Mississippi Code of 1972*.

**1. In accordance with Sections 27-35-71 and 29-3-71 of the Mississippi Code of 1972**, should taxes on sixteenth section land be sold at a tax sale for the Chancery Clerk to collect thereafter, or should the taxes be collected by the Tax Collector-Assessor as personal property or mobile home taxes which become delinquent?

We have previously opined in MS AG Op., Smith (October 2, 1992), a copy of which is attached hereto, that:

the Sixteenth Section Land itself is exempt from taxes and cannot be sold for taxes. The leasehold interest is taxable and may be sold for failure to pay taxes. If the leasehold interest was sold, then via that sale, the county collected its taxes and there are no outstanding taxes. The purchaser of the leasehold interest continues the lease for the balance of the term paying all future taxes as they accrue. Since no redemption occurred, the balance of the lease matured to the tax sale purchaser. The remainder of the lease is all that was purchased and when the lease expired, taxes no longer accrue.

We opine that since a sale for taxes of a sixteenth section land leasehold is deemed to pay the taxes, personal liability therefor is extinguished by such sale, and there is no subsequent duty upon a chancery clerk or a tax assessor and collector to collect said unpaid taxes.

See also MS AG Op., Leonard (December 18, 1985), a copy of which is enclosed.

**2. If these taxes are not sold on sixteenth section land, what authority does the Chancery Clerk have to collect these taxes?**

Section 27-41-11 provides in pertinent part:

It shall be the duty of every person assessed with state, county, school, road, levee and other taxing district and municipal ad valorem taxes to pay all such taxes to the tax collector on or before the due dates fixed and prescribed in Section 27-41-1 hereof, and if not paid, it shall be the duty of the tax collector to enforce payment thereof as hereinafter provided.

We enclose a copy of MS AG Op., Sanders (March 4, 1993), wherein we opined that it is the duty of the tax collector to collect unpaid taxes even when the delinquencies occurred before the present tax collector took office.

We find no statute imposing a duty upon a chancery clerk to collect unpaid ad valorem taxes.

**3. How soon after the taxes become delinquent should the lease be canceled?**

If the lease of sixteenth section land contains a provision that the lease terminates upon non-payment of ad valorem taxes, the lease will terminate upon the date specified therein. Therefore, reference to each specific lease is required, and we cannot answer this question without reviewing the lease. *See* MS AG Op., Graves (August 7, 1984), a copy of which is enclosed.

In regard to termination of a leasehold wherein the lease is silent as to the payment of ad valorem taxes, we invite your attention to the enclosed copy of MS AG Op., Griffith (February 16, 1983), wherein we opined that a purchaser at a tax sale of a sixteenth section leasehold acquires the remainder of the lease, subject to the right of redemption in the lessee, and that a sale to the state extinguishes the lessee's rights in the leasehold, again subject to the right of redemption in the lessee. *See also* MS AG Op., Walker (September 3, 1991), a copy of which is enclosed.

**4. Are the new lease holders responsible for any back taxes owed by the prior lessee?**

In MS AG Op., Barbour (June 23, 1987) and in MS AG Op., Griffith (February 16, 1983), we opined that a new lease holder is not responsible for taxes not paid by a prior lessee. Copies of these opinions are enclosed.

Very truly yours,

Mike Moore

Attorney General

By: Edwin T. Cofer

Special Assistant Attorney General

THOMSON REUTERS

## WESTLAW Mississippi Attorney General Opinions

*Honorable Wiley J. Barbour*Office of the Attorney General  
June 23, 1987

1987 WL 121669 (Miss.A.G.)

Office of the Attorney General

State of Mississippi

**\*1 June 23, 1987**

\*1 Honorable Wiley J. **Barbour**  
\*1 Attorney  
\*1 Yazoo County Board of Education  
\*1 Post Office Box 960  
\*1 Yazoo City, Mississippi 39194

Dear Mr. **Barbour** :

\*1 I refer to your letter of May 8, 1987 . Attorney General Edwin Lloyd Pittman has referred your letter to me for research and reply.

\*1 Your letter is quoted as follows:

\*1 "On behalf of the Yazoo County Board of Education, I request that your office furnish us an opinion on the following set of facts:

\*1 "In 1979 the Yazoo County Board of Education granted a five year lease on eighty acres of a given sixteenth section for pasture purposes. The lease specifically described the eighty acres leased. Through error, the tenant was assessed on his 1984 ad valorem taxes for a leasehold on the entire sixteenth section rather than the eighty leased. As his lease expired December 31, 1984, the tenant did not pay the 1984 ad valorem assessment and the property was sold to the State of Mississippi for 1984 ad valorem taxes in April, 1985.

\*1 "In 1985, the Board of Education granted a five year pasture lease to a new tenant and subsequently leased on a five year term the remainder of the sixteenth section to a third party for hunting purposes.

\*1 "The Yazoo County Tax Collector has properly assessed the pasture lease to the 1985 tenant but has refused to accept his ad valorem tax payment because the 1984 ad valorem taxes had not been redeemed. The same is true in regard to the ad valorem taxes for the tenant holding the hunting lease.

\*1 "On April 1, 1987 , the tax sale for the 1984 ad valorem taxes matured to the State of Mississippi.

\*1 "The Yazoo County Board of Education requests that you advise whether, under the set of facts set forth above, the maturing of the tax sale for 1984 ad valorem taxes to the State of Mississippi in any way effects the subsequent two leases granted by the Yazoo County Board of Education."

\*1 A lessee of sixteenth section land is responsible for payment of ad valorem taxes by virtue of Mississippi Code of 1972, Section 29-3-71 which states:

\*1 "Sixteenth section lands reserved for the use of schools, or lands reserved or granted in lieu of or as a substitute for the sixteenth sections, shall be liable, after the same shall have been leased, to be taxed as other lands are taxed during the continuance of the lease, but in case of sale thereof for taxes, only the title of the lessee or his heirs or assigns shall pass by the sale."

\*1 As further stated in *Turney v. Marion County Board of Education*, 481 So.2d 770, 782 (Miss.1985), "[T]he liability for payment of taxes is a matter of contract. The Board of Education, as a prudent manager of lease lands, is within its general powers to require that the lessee pay the general taxes in addition to the fair rental value of the land.... The school lands are not liable for general taxation as long as they remain unleased, but following their lease, the leasehold is liable for taxation. The lessee, not the county, is liable for general taxation...."

\*2 With the exception of drainage taxes which may be assessed against sixteenth section as set forth in Mississippi Code Section 29-3-73 (Supp.1978), the school board is not responsible for payment of ad valorem taxes, nor would a new lessee on the same leasehold property unless that lessee purchases the leasehold interest at a tax sale.

\*2 Once the sale for taxes takes place and matures to the State of Mississippi as in this situation, there is no authority to require a current leaseholder to pay the old taxes, nor is there authority for the Board of Education to pay them.

Very truly yours,

\*2 Edwin Lloyd Pittman  
\*2 Attorney General  
\*2 BY: Kathy D. Sones  
\*2 Special Assistant Attorney General

1987 WL 121669 (Miss.A.G.)

END OF DOCUMENT

1977; and Ms. Mattie M. Lee on September 28, 1973.

\*2 In specific reference to your second inquiry, if the lease expired for failure to pay delinquent taxes, then a new lessee would not be obligated to pay the delinquent taxes.

\*2 If this office can be of benefit in the future, please do not hesitate to contact us.  
Sincerely,

\*2 Bill Allain  
\*2 Attorney General

1983 WL 43197 (Miss.A.G.)

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