

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

August 10, 2018

Norma J. Anderson
Tunica County Tax Assessor/Collector
Post Office Box 655
Tunica, Mississippi 38676

Re: Authority to Forgive Special Assessments

Dear Ms. Anderson:

Attorney General Jim Hood is in receipt of your opinion request and has assigned it to me for research and reply. In your letter, you explain that you received a warranty deed dated May 24, 2018, wherein the grantor is TJM Tunica, LLC and the grantee is Tunica County. Additionally, you inform our office that the property in question has a special assessment lien attached.

Questions Presented

1. Does the Board of Supervisors have the authority to change ownership of a property after the prescribed lien date has passed thereby striking the current year ad valorem taxes as well as the previous year?
2. Can the Tax Assessor and/or the Chancery Clerk forgive the special assessment lien that is due by the grantor for the current year and last year's assessment rolls, with an order from the Tunica County Board of Supervisors?

Response

1. The Attorney General shall issue official opinions on matters of state law only as they relate to the requestor's own office or agency.
2. Section 100 of the Mississippi Constitution of 1890 prohibits the forgiving of amounts due to the County for special assessments or releasing parcels of property from the liens of the special assessments.

Legal Research and Analysis

In response to your first question, we must point out first that Miss. Code Ann. Section

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7-5-25 states that the Attorney General shall issue official opinions on matters of state law only as they relate to the requestor's own office or agency; thus, to the extent you request an opinion as to the powers and authorities of the Tunica County Board of Supervisors, this office cannot issue an official opinion. However, please note the following as guidance for your question of whether a change of ownership of property from a private company to the County on May 24, 2018, results in striking the current year's ad valorem taxes owed as well as the previous year's taxes.

Ad valorem taxes are a lien that attach to the land on January 1 of each year. See Miss. Code Ann. Sections 27-35-1 and 27-35-3. Personal liability for ad valorem taxes against the owner of any piece of real property attaches as of January 1st lien date. MS AG Op., Griffith (May 13, 1992). The ad valorem tax lien against the property, however, is extinguished if a public body acquires the property. Therefore, if a private company owned the property as of January 1, 2018, the company would be liable for the full amount of both the 2017 and 2018 ad valorem taxes, even though the lien against the property was extinguished when the property was acquired in May of 2018 by Tunica County. Consequently, both the 2017 and the 2018 ad valorem taxes are owed to Tunica County from the private company.

OFFICIAL OPINION
In response to your second question, Section 100 of the Mississippi Constitution of 1890 provides:

No obligation or liability of any person, association, or corporation held or owned by this state, or levee board, or any county, city, or town thereof, shall ever be remitted, released or postponed, or in any way diminished by the Legislature, nor shall such liability or obligation be extinguished except by payment thereof into the proper treasury; nor shall such liability or obligation be exchanged or transferred except upon payment of its face value; but this shall not be construed to prevent the Legislature from providing by general law for the compromise of doubtful claims.


We are of the opinion that the above section prohibits the forgiving of amounts due to the County for special assessments or releasing parcels of property from the liens of the special assessments.

If this office may be of any further assistance to you, please let us know.

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:


Avery Mounger Lee
Special Assistant Attorney General