



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

December 10, 2024

John P. Martin, Esq.
Attorney, Parkway East Public Improvement District
Post Office Box 1039
Canton, Mississippi 39046

Re: Liability for Unpaid Special and Maintenance Assessments on Void
Tax Sale

Dear Mr. Martin:

The Office of the Attorney General has received your request for an official opinion.

Background

According to your request, Parkway East is a public improvement district in Madison County, Mississippi. A Parkway East property owner has contracted to sell a parcel of land (the "Property") that is subject to special and maintenance assessments within Parkway East. The landowner has reached out to Parkway East to determine the amount of special and maintenance assessments currently owed on the Property. The assessments due and owing for the tax years 2022-2024 are not at issue. However, while the dollar amounts of the special and maintenance assessments levied against the Property for tax years 2018-2021 are known, whether these amounts are still owed has been questioned due to the following facts:

- The landowner (a private, nonpublic owner) acquired the Property from the Mississippi Secretary of State by Forfeited Tax Land Patent in 2017.
- The landowner obtained a judgement confirming tax patent in 2018.
- Parkway East levied special and maintenance assessments on the Property for the tax years 2018-present.
- The landowner did not pay the special and maintenance assessments on the Property for tax years 2018-present.
- However, for each of the tax years of 2018-2021, the Madison County Chancery Clerk presented a Memorandum to the Madison County Board of Supervisors, stating as follows:

Pursuant to AG Opinion No. 95-0541, once property has been struck off to the state at a tax sale, the property should not be sold again. Therefore, once

the land was struck to the state, all subsequent sales are void. The Board of Supervisors should so adjudicate by Order spread upon its minutes. Because all tax sales subsequent to the land being struck to the state were void, the purchaser, upon request, is entitled to a refund of the purchase price paid at the tax sales, but is not entitled to payment of interest, except that portion of the purchase price that represented interest due on the taxes prior to the tax sale.

I am requesting you allow me to void tax sales on the following parcels being truck to the state or matured to the state and should not have sold again.

- For each of the tax years from 2018-2021, the Madison County Board of Supervisors made an entry in its minutes to “Approve Void Tax Sales Struck to State,” which list included the Property each such year.
- As a result of the minute entries for the tax years of 2018-2021, the Property has not been struck off to the State of Mississippi for nonpayment of special and maintenance assessments.

Question Presented

Does the Madison County Board of Supervisors’ action in setting aside the tax sales on the Property for the tax years 2018-2021 void the landowner’s underlying liability for unpaid special and maintenance assessments for the same tax years?

Brief Response

No. Pursuant to Mississippi Code Annotated Section 29-1-31, in instances such as the one provided, the tax assessor must assess the Property for the years it escaped taxation—or in this case special and maintenance assessments—and collect such taxes in the manner provided by law.

Applicable Law and Discussion

To begin, we note that this opinion is written with the understanding the subject 2018-2021 tax sales were voided by the Madison County Board of Supervisors—a fact provided by the requestor. This office can neither validate nor invalidate past actions. Miss. Code Ann. § 7-5-25.

Sections 19-31-1, *et seq.*, are known as the Public Improvement District Act (the “Act”), and Section 19-31-33 therein addresses assessments under the Act. Pursuant to Section 19-31-33(3),

Benefit special assessments and maintenance special assessments authorized by this section shall be levied and payable in annual installments for each year for which bonds secured by the assessment are outstanding. The tax collector shall collect and enforce benefit special assessments and maintenance special assessments *in the same manner and at the same time as ad valorem taxes*. Benefit

special assessments and maintenance special assessments *shall constitute a lien on the property against which assessed until paid and shall be on a parity with the lien of state, county, municipal and school board property taxes.*

(emphasis added).

Section 29-1-31 addresses “cases where it appears that the claim of title of the state to the lands on the records of the land office . . . was acquired under tax sales which were void and which passed no title to the state.” Under Section 29-1-31, the land commissioner, with the approval of the attorney general, is authorized and directed to remove lands from the lists of lands sold to the state for delinquent taxes. The land commissioner must then notify the clerk of the chancery court of the county in which the lands are situated and the county assessor of such lands. Miss. Code Ann. § 29-1-31. It is then

the duty of the assessor to assess such lands for taxes for the proper year or years at such valuation as the assessor may deem just. *Such assessment shall be made in the manner provided by law for the assessment of property which has escaped taxation for former years. And the tax collector shall collect the taxes on such lands in the manner provided by law.*

Id. (emphasis added).

In summary, nothing within Section 19-31-33(3) or Section 29-1-31 indicates that the Madison County Board of Supervisors’ action in voiding tax sales on the subject Property for the years 2018-2021 —that would have otherwise been struck to the State of Mississippi for nonpayment— would likewise void the landowner’s underlying liability for unpaid special and maintenance assessments for the same tax years.¹ Rather, pursuant to Section 29-1-31, the tax assessor must assess the Property for the years it escaped taxation, or in this case unpaid special and maintenance assessments, and collect the same in the manner provided by law.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Maggie Kate Bobo*

Maggie Kate Bobo
Special Assistant Attorney General

¹ See also *Thoden v. Hallford*, 391 So. 3d 1137, 1146 (Miss. 2024) (discussing unjust enrichment and stating that when a tax sale is declared “void ab initio” — i.e., as if it never happened — a property owner “is not allowed to have the taxes paid on her property . . . free of charge”).