

**Opinion No. 512****Leases—County Commissioners—County Tax Deed Lands, Leases of.**

HELD: County lands leased under authority of Chapter 65, Laws of 1933, do not carry an implied restriction that such leases are made subject to sale, but the board of county commissioners, if they desire, may expressly make the leases subject to sale.

April 12, 1934.

You ask whether leases entered into by virtue of Chapter 65 of the Laws of 1933 carry an implied restriction that such leases are made subject to sale.

Section 28, Chapter 100 of the Laws of 1931, is contained within a general act designating the powers of county commissioners and the particular section refers to the powers of county commissioners relative to leasing lands. It contains the following provision: "All such property must be leased subject to sale by the board and no lease shall be for a period to exceed three years."

Chapter 65, Laws of 1933 is a special act, the title of which reads as follows: "An Act providing for the Sale, Leasing, Exchanging, and for Quieting Title to Lands Acquired by any County by Tax Deed." It is limited to lands acquired by tax deed. By its terms it authorizes a lease for a period not

“longer than five years, except of lands to be or within a legally created grazing district, when such lease may run for a period of not to exceed ten years.’

It is apparent that Chapter 65 is intended to include a new method of leasing tax title lands owned by counties. It extends the term of leasing and to that extent amends the prior statute. I believe that such law also relieves the commissioners from the limitation imposed by the prior statute to the effect that all property must be leased subject to sale. As noted in your letter, the earlier statute is a general statute, the later statute a special statute. The earlier statute contains a limitation on certain leases, the later statute authorizes different leases with no mention of a limitation.

Under the decisions of the Supreme Court of this state it would appear that the implied repeal removes the limitation noted. *Reagan v. Boyd*, 59 Mont. 453; *Barth v. Ely*, 85 Mont. 310; *London G. & A. Co. Ltd., v. Industrial Accident Board*, 82 Mont. 304; *City of Butte v. Industrial Accident Board*, 52 Mont. 75.)

It would seem, however, that there is nothing in the statute to prevent commissioners from leasing tax lands subject to sale, if they so desire.