

## No. 320

**TAXATION—TAX DEED LANDS—SALE OF TAX DEED LANDS—COUNTY COMMISSIONERS**

- Held: 1. After tax deed land has been appraised and fair market value established and land advertised for sale at public auction sale, and no sale had, county commissioners may then sell said land at private sale at best price obtainable, but for not less than ninety per cent of last appraised value.
2. Where tax deed lands have been appraised and advertised for sale at public aucion sale and no sale had, and where county has then leased such lands subject to sale, board may sell such land at private sale without again appraising and advertising said land, but such private sale must be for not less than ninety per cent of last appraised value, in event board determines such action for best interest of county. No preference may be given to any particular person.
3. The board of county commissioners may terminate a lease which it has granted on tax deed lands, which lease was made subject to sale, and sell the lands whenever it determines such action is for the best interest of the county.

December 13, 1941.

Mr. Robert E. Purcell  
County Attorney  
Garfield County  
Jordan, Montana

Dear Mr. Purcell:

You have submitted the following questions:

- "1. In construing Sections 4 and 5 of Chapter 171, Session Laws of the Twenty-seventh Legislative Assembly, is it the opinion of your office that the County Commissioners must again advertise for sale at public aucion land which the board has leased to another before they can sell it, or may the board sell it immediately at private sale at the best obtainable price, provided it be at least 90% of the last appraised value, without such advertising?"
- "2. In the above instance, does the board have more authority or right to sell such leased land to the leasee at his request than to a stranger to the lease?"
- "3. In the event a stranger to the lease demands that the lease then existing be cancelled, must the board comply with his demands and advertise the land for sale at public auction?"

Your first question is fully answered by Official Opinion No. 6, Vol. 19, Report and Official Opinions of the Attorney General.

As to your second question: If the board of county commissioners leases tax deed land subject to sale by the county—after said land has been appraised, advertised for public auction sale, not sold at such sale, and not sold at private sale for not less than 90 per cent of the last appraised value—then the board of county commissioners may, if it determines such question to be for the best interests of the county, sell said land at private sale at the best price obtainable. However, it must be noted the sale price cannot be less than 90% of the last appraised value, regardless of who is making the offer. No preference may be given to any individual. In case more than one person makes an offer for the same land, then the best interests of the county would seem to require the board of county commissioners reappraise, readvertise, and offer such land again at public auction sale.

In regard to your third question: It is my opinion the board of county commissioners has authority and it is within its sound discretion to decide whether or not it will terminate such a lease. The board's action and concern would be based on what it determines is for the best interests of the county as a whole. Whether the board should sell at a private sale or reappraise, readvertise and offer the land again at public auction sale would depend upon whether more than one person desires to purchase said lands and whether the interests of the county would be best served by such procedure.

Sincerely yours,

JOHN W. BONNER  
Attorney General