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SPRINGFIELD

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FILE NO. S-292

TAXATION:
Tax Deeds

Honorable Louis R. Bertani
State's Attorney of Will County
Courthouse
Joliet, Illinois 60431

Dear Sir:

I have your recent letter wherein you state:

"The County of Will currently is presenting proofs to the Circuit Court for tax deeds for approximately 1,900 parcels that the County bought at a 1968 scavenger sale. According to Section 697(d), Chapter 120 of the 1969 Illinois Revised Statutes, when the County begins to sell the parcels, the various taxing bodies are to share proratably in the distribution of the proceeds of the sale of said parcels.

The question has arisen as to the recoupment or offsetting of the expenses incurred by the County in obtaining tax titles to the parcels herein involved before any distribution is

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made to the taxing bodies. The County has expended sums for such items as title searches, publication fees, service of notices and certified mailings. In addition, outside attorneys fees were paid to special assistant state's attorneys for work performed in petitioning for tax deeds. Also, various County offices such as the Circuit Clerk's office, the County Recorder of Deeds and the County Clerk's office performed their duties in handling the filing of the cases, the preparation of the tax deeds and the recording of the deeds. They did not receive any fees because the County was the party requesting the work.

In light of Section 697(d), I ask an opinion of the following questions:

1. Before any distribution to the various taxing bodies of any proceeds received by the County from the sale of parcels of real estate that the County petitioned for tax deed, can the County offset or recoup any of its expenses advanced in obtaining tax titles to said parcels?
2. Before any distribution of said proceeds, can the expenses of the Circuit Clerk's office, the County Recorder of Deeds, the County Clerk's office or any other county office that performed work in aiding the execution of the necessary legal requirements to get tax deeds for the County be recouped or offset?

Your prompt reply will be greatly appreciated."

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Paragraph 6976 of Chapter 120, 1969 Illinois Revised Statutes, reads as follows:

"Whenever any tract of land or lot is offered for sale under any of the provisions of this Act, the County Board of the County in which the same is located, in its discretion, may bid therefor, in the name of the said County as trustee for all taxing districts, including the State, having an interest in the taxes or special assessments for the nonpayment of which said tract of land or lot is sold. The County Board may appoint some officer or person to attend such sales and bid on its behalf. The County shall apply on the bid the unpaid taxes and special assessments due upon the tract of land or lot and no cash need be paid. The County shall take all steps necessary to acquire title to the tracts of land or lots so purchased and may manage and operate the property so acquired. When a county, or other taxing district within the county, is a petitioner for a tax deed no filing fee shall be required on the petition and the county as tax creditor and as trustee for other tax creditors, or other taxing district within the county shall not be required to allege and prove that all taxes and special assessments which become due and payable after the sale to the county have been paid. The lien of taxes and special assessments which become due and payable after a sale to a county shall merge in the fee title of the county, or other taxing district within the county, on the issuance of a deed and such taxes and special assessments together with the taxes and special assessments included in the tax sale to the county shall

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share pro rata in the proceeds of the sale of the property by the county.

The County may sell or assign the tracts of land or lots so acquired, or the certificate of purchase thereto, and the proceeds of said sale or assignment shall be distributed to the taxing districts, including the State of Illinois, in proportion to their respective interests therein.

At annual tax sales pursuant to the provisions of Section 225 of this Act, a County may bid only in the absence of other bidders."

The acquisition of real estate for delinquent taxes is a statutory proceeding. The provisions of Paragraph 697d, as well as the other provisions of the statutes, do not permit a county to offset or recoup any of its' expenses advanced in obtaining tax titles. The method of conducting tax sales is wholly within the control of the Legislature, page 120 of Volume 85, Corpus Juris Secundum. Since the statute does not authorize a county to offset or recoup any of its' expenses in acquiring tax titles, I am of the opinion that it cannot do so. Similarly, the statute does not permit the Circuit Clerk, the Recorder, County Clerk or any other county office

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to recoup their expenses where the county is acquiring a tax deed. I am, therefore, of the opinion that they may not do so.

Very truly yours,

ATTORNEY GENERAL