



STEVE CLARK
ATTORNEY GENERAL

STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201

(501) 371-2007

OPINION NO. 85=37

February 12, 1985

Mr. Charlie Daniels
Commissioner of State Lands
State Capitol Building
Little Rock, AR 72201

Dear Commissioner Daniels:

You have asked this office for an opinion regarding several questions raised in the application of Act 626 of 1983 to the sale of forfeited lands by your office. These questions will be addressed in order as they appear in your letter.

You first note that Act 626 requires that the Commissioner of State Lands notify the owner of forfeited lands, at the owner's last known address, by certified mail, of the owner's right to redeem. The Act further sets out the requirements of the notice. You state that, to date, no certified letters have been sent to the owners of tax delinquent lands certified to the State for the years 1978, 1979 and 1980. You ask whether the law requires that the Land Commissioner send certified letters to the owners of property certified in 1978, 1979 and 1980 before that land can be sold at auction. The answer to this question is yes. Since there is no other method of notice and redemption, the method identified in §1 of Act 626 is the one which must be applied to all lands currently held by the Land Commissioner. Furthermore, §7 of Act 626 states that "all delinquent land now held by the State Land Commissioner shall be disposed of according to the provisions of this Act."

Your next question asks whether it is the intent of the law that a sale should not be held until the owner of record has had the notification for a period of two years, and, if so, whether that means that, should letters be sent to the land owners of 1978, 1979, and 1980 certifications, it would be 1987 before the Land Commissioner could legally

conduct a land sale. The answer is that it is the intent of the law that the owner receive the notice provided in the Act. Furthermore, it would be two years from the sending of the notice, or 1987, before the land could be legally sold by the Commissioner.

For your next question, you note that §1 of Act 626 provides that the date of sale of forfeited lands shall not be more than three years after the land is transferred to the Commissioner, and that, with regard to some parcels, more than three years have passed since they were certified to the State. You ask whether that fact affects the availability for sale of those parcels. The answer to that question is that Act 626 requires that all lands certified to the State must be sold according to its provisions, unless redeemed. Therefore, these parcels are still available for sale notwithstanding the cited provision in §1 of Act 626.

Your next question asks whether you must name a specific date in your certified letters of notice to owners concerning the date of sale of their property. The Act indicates in §1 that "the notice shall indicate the sale date." This indicates that the notice must state a specific date and that the sale must be held on the date provided in the notice.

For your next question, you note that §3 states that land will be sold to the highest bidder provided that such bid is equal to at least seventy-five percent (75%) of the appraised value of the land. You further note that in records received by your office, the only monetary value given to the land is the assessment, which is twenty percent (20%) of the appraised value as determined by the county assessor. You also note that the Land Commissioner's Office has no mechanism for checking the validity of the assessment. You ask whether it is the intent of the law that the Commissioner simply multiply by five the "valuation" column on the forms completed by the county clerks to determine appraised value, then take 75% of that figure as a minimum bid. The answer to this question is yes.

With regards to your next question, you state that it is your intention to accept only sealed bids and that oral bids will not be accepted at the time of the sale. You ask whether this methodology is in keeping with the intent of the law. The answer to this question is yes.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Tim Humphries.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steve Clark".

STEVE CLARK
Attorney General

SC/TCH/ljm