



# Nichole D. Kroncke

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January 11, 2020

To Illinois Attorney General Opinions Bureau:

I am a newly elected State's Attorney in Shelby County. I am requesting a formal written opinion from the Illinois Attorney General's Office on an issue that has been ongoing in Shelby County for a substantial period of time.

Shelby County owns 236 acres of real estate (referred to as "Shelby County Farm") and has been renting the land to a private party for many years. The Lease Agreement (past and present) reads that the land is to be used for agricultural purposes only. The current lease provides that the tenant pays Shelby County two annual, equal payments of \$19,630.00 as cash rent. The past and present leases are silent as to which party is responsible for payment of taxes. I have attached a copy of the lease agreement for your review.


My inquiry is two-fold: 1. Does the county have authority to lease real estate to a private party to be used by such individual for a private farming operation for an annual cash rental paid to the county? 2. Which party is responsible for payment of taxes?

In the past, Shelby County has paid taxes on the real estate. Last year, before I was sworn in as State's Attorney, a disagreement ensued during a county board meeting and, as a result, neither the county nor the tenant are currently paying the taxes. When the taxes became delinquent, they were forfeited at tax sale.

I have discussed this issue with an attorney in your Opinions Bureau and was provided with a 1974 Illinois Attorney General opinion, file NO. NP-843. Because the opinion is more than forty years old and caselaw / statutes have changed, I am requesting the issuance of an updated opinion.

Please let me know if additional information would assist the Opinions Bureau. Thank you in advance for your consideration and assistance.

Sincerely,

  
Nichole Kroncke  
Shelby County State's Attorney