

STATE OF LOUISIANA LEGISLATIVE AUDITOR

Redemption of Certain Properties Adjudicated to the Winn Parish Police Jury

Winnfield, Louisiana

May 14, 2003



Investigative Audit

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Daryl G. Purpera, CPA, CFE

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OFFICE OF
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STATE OF LOUISIANA
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May 14, 2003

**MR. LAMAR TARVER, PRESIDENT,
AND MEMBERS OF THE WINN
PARISH POLICE JURY**
Winnfield, Louisiana

**THE HONORABLE JAMES E. JORDAN
WINN PARISH SHERIFF**
Winnfield, Louisiana

Transmitted herewith is our investigative report on the Redemption of Certain Properties Adjudicated to the Winn Parish Police Jury. Our examination was conducted in accordance with Title 24 of the Louisiana Revised Statutes and was performed to determine the propriety of certain allegations received by this office.

This report presents our findings and recommendations as well as your response. Copies of this report have been delivered to the Winn Parish Police Jury; the Winn Parish Sheriff's Office; and to the Honorable Terry R. Reeves, District Attorney for the Eighth Judicial District of Louisiana, and others as required by state law.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Grover C. Austin".

Grover C. Austin, CPA
First Assistant Legislative Auditor

SD:EKL:DGP:ss

[WINNPJST03]

Executive Summary

Investigative Audit Report Redemption of Certain Properties Adjudicated to the Winn Parish Police Jury

Background (See page 5.)

The Winn Parish Police Jury (Police Jury) is the governing authority for Winn Parish and is a political subdivision of the State of Louisiana. The Police Jury is funded largely through property and sales taxes, beer and alcoholic beverage permit fees, state revenue sharing and various other state and federal grants. In the event that property owners fail to pay their property taxes, state law provides that the property may be sold by the tax collector at a tax sale. Property not sold at the tax sale may be adjudicated to the parish in lieu of taxes (R.S. 47:2186, 47:2251).

Louisiana Revised Statute (R.S.) 47:2183 provides that the titleholder or purchaser of property has three years from the date of the recording of the tax deed to redeem the property. R.S. 47:2222 and 47:2222.1 require that the person redeeming the property, be that person the titleholder or purchaser at the tax sale, shall pay all taxes, interest, and value of improvements made upon the property. R.S. 47:2261-2262 provides that the parish may sell the adjudicated property once certain notification procedures have been performed. In addition, once a post-adjudication sale has been initiated, at any time before the post-adjudication sale, the property may be redeemed by the tax debtor upon payment of all taxes, interest, costs, and penalties due [R.S. 47:2261(c)(1)].

The legislative auditor received information indicating that properties adjudicated to the parish were improperly redeemed after the redemption period. In addition, though the parish had spent a considerable amount of public funds for improvements on the properties, these funds were not recovered during the redemption.

Findings (See pages 7-11.)

Properties previously adjudicated to the parish because of outstanding taxes were improperly redeemed in violation of state law and subsequently sold to the First Baptist Church of Winnfield. Police Jury President Lamar Tarver, who is also the church treasurer at the First Baptist Church, signed a church check made payable to the previous tax debtor, Mr. Lawrence Desadier, to pay the \$6,081 in back taxes. However, the Police Jury and the Winn Parish Sheriff did not require Mr. Desadier to pay \$72,075 spent by the Police Jury to clean up the properties. This transaction was improper because:

1. The properties were redeemed seven years after adjudication. Absent proper notification of a post-adjudicated sale, state law allows only a three-year redemption period.
2. All taxes, costs, and interest incurred by the Police Jury was not paid by the previous titleholder or purchaser at the tax sale before redemption.
3. Because the library board, a component unit of the parish, desired to use the properties for a public purpose the redemption of the properties was not in the best interest of the parish.
4. The Police Jury President who also served as an ex-officio member of the library board and the church treasurer did not act in the best interest of the parish.
5. Though Mr. Desadier previously owned and redeemed only a one-half interest in one of the properties, he sold 100% of that property to the church. In contrast to Mr. Desadier's cash deed to the church, the Police Jury still owns the other half.

It appears that the transaction was improperly performed in a manner that provided the properties to the church at the lowest possible cost without regard to the best interest of the public. The Police Jury was denied the \$72,075 of the \$92,786 spent to rehabilitate the properties and the parish was denied the use of the properties. According to Mr. Tarver, if the properties had been sold, the Police Jury could have received revenue in excess of \$50,000.

Recommendations (See page 13.)

We recommend that the Police Jury and Sheriff's Office establish procedures to ensure that state law, as it applies to the redemption of adjudicated property, is adhered to. These procedures should include, at a minimum:

1. The Police Jury should consult with legal counsel regarding state laws with the goal of creating a greater understanding of the parish's rights and obligations with respect to property received through tax sale including (a) the right to use the property for public purposes; (b) the obligation to recover taxes, costs, interest, and value of improvements made by the police jury should the property be redeemed; and (c) the obligation to give legal notice should a post-adjudication sale be initiated.
2. The Police Jury should implement procedures to ensure that public funds spent on adjudicated property are properly reported to the tax collecting authority before allowing redemption.
3. The Sheriff's Office should consult with legal counsel regarding the proper procedures to be followed when property is redeemed. The Sheriff's Office should ensure that during a redemption all taxes, costs, interest, and value of improvements are recovered before allowing the redemption.

4. Once property is adjudicated to the parish, the Police Jury should use adjudicated property in a manner that is in the best interest of the public.
5. The Police Jury should initiate civil action to recover the improperly redeemed properties or funds spent for improvements and other costs therein.

Management's Response (*See Attachment I.*)

The Police Jury gave notification that they have no response to this report on certain properties adjudicated to the Police Jury; however, Mr. Larmar Tarver, Winn Parish Police Jury President, submitted his personal response.

Mr. Tarver states that he was not involved with the redemption and subsequent sale of the adjudicated property. He was performing his duty as church treasurer when he signed the check made payable to Mr. Desadier. Mr. Tarver states that he is only the president of the Police Jury and that he does not control the actions of that governing body. Mr. Jacques Derr, JD advised Mr. Tarver that the conclusion that the property would have brought a substantial sum had it been sold at public auction was incorrect because of the fact that the property was in the hands of the Police Jury and was not merchantable. Mr. Tarver stated that at anytime up to the moment a public sale occurs, Mr. Desadier could have redeemed the property for payment of taxes, interest, cost, and penalties due. In conclusion, Mr. Tarver states that the report singling him out as an individual is out of order and does not state any law that he has broken.

Winn Parish Sheriff James Jordan permitted Mr. Jacques Derr, JD to render a response on behalf of the Sheriff's Office. Mr. Derr states that the redemption was lawful subsequent to the three-year redemption period because of R.S. 47:2262(B), which he interprets as the tax debtor, owner or any person interested personally could redeem adjudicated property beyond the three-year redemption period by paying all accrued taxes and costs in accordance with the laws applicable to redemption, provided the title to the adjudicated immovable property remains in the political subdivision. Therefore, Mr. Derr states that the action of the sheriff in redeeming the property was proper because of the fact that the property was still possessed by the Winn Parish Police Jury. In reference to the amount of money collected for the redemption being incorrect, Mr. Derr sites R.S. 47:2222(D). Mr. Derr states that there were no improvements made to the property because the lot is bare. Mr. Derr states that he examined the conveyance records and mortgage records for the property and the Sheriff's Office redemption of the property for payment of all taxes assessed upon the property with interest of one percent per month until redeemed together with costs appears to be proper.

Background and Methodology

The Winn Parish Police Jury (Police Jury) is the governing authority for Winn Parish and is a political subdivision of the State of Louisiana. Seven jurors representing the various districts of Winn Parish govern the Police Jury. The jurors serve four-year terms, which expire in January 2004.

Louisiana Revised Statute 33:1236 gives the Police Jury various powers in regulating and directing the affairs of the parish and its inhabitants. The more notable of those are the powers to make regulations for their own government; to regulate the construction and maintenance of roads and bridges; to regulate the construction and maintenance of drainage systems; to regulate the sale of alcoholic beverages; and to provide for the health and welfare of the poor, disadvantaged, and unemployed in the parish. Funding to accomplish these tasks is provided by ad valorem taxes, sales taxes, beer and alcoholic beverage permits, state revenue sharing, and various other state and federal grants.

In the event that property owners fail to pay their property taxes, state law provides that the property may be sold by the tax collector at tax sale. Property not sold at the tax sale may be adjudicated to the parish in lieu of taxes (R.S. 47:2186¹ and 47:2251). R.S. 47:2183 provides that the titleholder or purchaser of property has three years from the date of the recording of the tax deed to redeem the property. R.S. 47:2222 and 47:2222.1 require that the person redeeming the property shall pay all taxes, interest, and value of improvements made upon the property. R.S. 47:2261-2262 provides that the parish may sell the adjudicated property once certain notification procedures have been performed. In addition, once a post-adjudication sale has been initiated, at any time before the post-adjudication sale, the property may be redeemed by the tax debtor upon payment of all taxes, interest, costs, and penalties due.

The legislative auditor received information indicating that properties adjudicated to the parish was improperly redeemed after the redemption period. In addition, though the parish had spent a considerable amount of public funds for improvements on the properties, these funds were not recovered during the redemption.

The procedures performed during this investigative audit consisted of (1) interviewing employees and officials of the Police Jury and Sheriff's Office; (2) interviewing other persons as appropriate; (3) examining selected Police Jury records; (4) performing observations and analytical tests; and (5) reviewing applicable state laws and regulations.

The result of our investigative audit is the findings and recommendations herein.

¹ R.S. 47:2186 provides, in part, that the bid accepted at tax sales shall be at least equal to the taxes, costs, and interest; otherwise, the tax collector shall bid in the name of the state.

Findings

Properties previously adjudicated to the parish because of outstanding taxes were improperly redeemed in violation of state law and subsequently sold to the First Baptist Church of Winnfield. Police Jury President Lamar Tarver, who is also the church treasurer at the First Baptist Church, signed a church check made payable to the previous tax debtor, Mr. Lawrence Desadier, to pay the \$6,081 in back taxes. However, the Police Jury and the Winn Parish Sheriff did not require Mr. Desadier to pay \$72,075 spent by the Police Jury to clean up the properties. This transaction was improper because:

- 1. The properties were redeemed seven years after adjudication. Absent proper notification of a post-adjudicated sale, state law allows only a three-year redemption period.**
- 2. All taxes, costs, and interest incurred by the Police Jury were not paid by the previous titleholder or purchaser at a tax sale before redemption.**
- 3. Because the library board, a component unit of the parish, desired to use the properties for a public purpose the redemption of the property was not in the best interest of the parish.**
- 4. The Police Jury president who also served as an ex-officio member of the library board and the church treasurer did not act in the best interest of the parish.**
- 5. Though Mr. Desadier previously owned and redeemed only a one-half interest in one of the properties, he sold 100% of that property to the church. In contrast to Mr. Desadier's cash deed to the church, the Police Jury still owns the other half.**

It appears that the transaction was improperly performed in a manner that provided the properties to the church at the lowest possible cost without regard to the best interest of the public. The Police Jury was denied the \$72,075 of the \$92,786 spent to rehabilitate the properties and the parish was denied the use of the properties. According to Mr. Tarver, if the properties had been sold, the Police Jury could have received revenue in excess of \$50,000.

Redemption of Property

On October 27, 1993, at a Winn Parish tax sale, Mr. Desadier purchased two parcels of property. Mr. Desadier purchased an undivided one-half interest in lots 1 & 2 of block 2 Long's Annex. This is the location of the old Winnfield Hotel. Mr. Desadier also purchased a full interest in the west half of block 6 lot 2, Long's Annex. This property was once the location of Garrett Cleaners. Mr. Desadier stated that after he acquired the properties, he learned that it was going to involve considerable clean-up cost and he therefore declined to pay the 1994 parish and city

property taxes. As a result, a tax sale was held on May 6, 1995, for the 1994 delinquent taxes. There were no bidders and the properties were adjudicated in accordance with Louisiana Revised Statutes (R.S.) 47:2186² and 47:2251³ to Winn Parish.

State law provides for the redemption of property sold at tax sale and the sale of property adjudicated to the parish. Generally, a tax debtor has three years to redeem property sold at tax sale. This period is extended when property has been adjudicated to the parish and the parish has begun efforts to sell the property.

R.S. 47:2183 provides, in part, that the owner of property has three years from the date of the recording of the tax deed to redeem the property. R.S. 47:2222 and 47:2222.1 require that the person redeeming the property shall pay all taxes, interest, and value of improvements made upon the property. R.S. 47:2261-2262 provides for the sale of property adjudicated to the parish. These laws provide that the parish may sell the adjudicated property once certain notification procedures have been performed. In addition, once a post-adjudication sale has been initiated, at any time before the post-adjudication sale, the property may be redeemed by the tax debtor upon payment of all taxes, interest, costs, and penalties due.

Costs Incurred by the Parish

The properties included structures that would require considerable efforts by the parish to demolish and clean up. During 1996, because the old Winnfield Hotel was causing a hazardous situation, the Police Jury initiated a process to demolish and dispose of the structure. Also in 1996, the Police Jury issued an order that condemned Garrett Cleaners and began the demolition and clean-up process. The Police Jury received \$86,357 from the Governor's Office of Rural Development and also expended \$6,429 from its General Fund to aid in the clean-up efforts. During 1997 and 1998, the Police Jury completed its clean up of the properties incurring costs totaling \$92,786 of which \$72,075 was spent on the properties in question.

There was no activity involving the properties for several years until 2001 when the parish library began expressing an interest. At the December 11, 2001, meeting of the Winn Parish Library Board, it was discussed that the properties could be transferred to the library board as a site for a new parish library. Minutes of this meeting indicate that Mr. Tarver, an ex-officio board member, thought this could be a possibility and the board agreed.

Police Jury Discusses Post-Adjudicated Sale

On June 17, 2002, Mr. Delane Crain, vice president of the Police Jury, made a motion to sell the properties through a post-adjudicated sale. In the discussion of the motion, Mr. Tarver stated that the First Baptist Church of Winnfield was interested in purchasing the properties. Mr. Crain is a member of the church and Mr. Tarver is both a deacon and church treasurer. Mr. Crain

² R.S. 47:2186 provides, in part, that the bid accepted at tax sales shall be at least equal to the taxes, costs, and interest; otherwise, the tax collector shall bid in the name of the state.

³ R.S. 47:2251 provides, in part, that where the state is designated as the adjudicatee there shall be substituted for the state the parish where the property is located.

estimated that the improvements to the properties might have increased their worth as much as \$40,000 to \$50,000.

On June 26, 2002, the *Winn Parish Enterprise*, a weekly paper, stated that at the request of the church the Police Jury agreed to initiate action for the public sale of the adjudicated property. In response, Ms. Mary Doherty, library director, requested at the Police Jury's July 22, 2002, meeting that the Police Jury rescind its motion. Ms. Doherty informed the Police Jury that the transfer is a win-win situation because the library is closed on Wednesday nights and on Sunday, which provides parking for the church. Though the Police Jury did not rescind its motion, the Police Jury failed to initiate a legal post-adjudication sale of unredeemed property as provided for in R.S. 47:2261 and 2262.⁴

Church Seeks to Acquire Properties

Members of the church began an effort to acquire the properties. Mr. Cranford Jordan, church deacon, stated that the church was in desperate need for parking because a planned highway expansion was to take a large part of the church's existing parking. Mr. Deano Thornton, church member and Mayor of the City of Winnfield, stated that the church had previously wanted the properties in 1994 and 1995. According to Mr. Thornton, at that time, the church's attorney suggested that the church not acquire the property because of the underground storage tanks used by the cleaners.

Mr. Desadier stated that in the early part of August 2002, members of the church contacted him regarding the properties. Mr. Desadier recalls that Mr. Jordan requested that he sell the properties to the church. Mr. Desadier stated that he did not realize that he had any rights remaining in the properties. According to Mr. Desadier, Mr. Jordan explained that he (Desadier) could redeem the properties and then sell them to the church.

Mr. Desadier stated he confirmed with Mr. Wayne Melton, chief civil deputy for the Sheriff's Office, that he could redeem the properties. Mr. Melton stated he was working under the premise that there was no prescription period as to the number of years a former owner could redeem adjudicated property.

Mr. Desadier stated approximately one week after his initial meeting with Mr. Jordan, he informed Mr. Jordan that he would redeem and sell the properties to the church. Mr. Desadier stated that he knew he did not have the money needed for the redemption. According to Mr. Desadier, after the meeting with Mr. Jordan but before the redemption date of September 12, 2002, he met with Mr. Tarver who explained to him that the church would make arrangements to supply him with the money needed to redeem the properties.

⁴ R.S. 47:2261 and 2262 provide, in part, that at least 60 days prior to the post-adjudication sale, the parish shall cause notice to be given to the owner, the mortgagee, and other specified persons. The parish shall notify the tax collector of all requests for post-adjudication sales and once notified the tax collector shall not allow the property to be redeemed without first securing confirmation from the parish of all cost due. In addition, when a tax-debtor participates in a post-adjudication disposition during or subsequent to expiration of the three-year redemptive period, it will be treated as a redemption and the tax-debtor will be required to pay all taxes and costs in accordance with laws applicable to redemptions.

Mr. Tarver's Statements

Mr. Tarver agreed that the Police Jury could have rescinded the motion to sell the properties and transferred the properties to the library through a cooperative endeavor. Mr. Tarver also stated the Police Jury might have realized more than \$50,000 had the Police Jury sold the properties through a public sale. Mr. Tarver further stated that he had full knowledge that the church planned to purchase the properties from Mr. Desadier and though he met with Mr. Desadier, he did not discuss the church providing the money for the redemption.

Redemption and Sale

Mr. Tarver agreed that he signed the church's check made payable to Mr. Desadier dated September 10, 2002. Mr. Desadier stated he picked the check up at the church's office and that on September 12, 2002, he deposited the check into his account. The Sheriff's Office and the City of Winnfield then allowed Mr. Desadier to redeem the properties by paying eight years of back taxes. On September 13, 2002, Mr. Desadier signed the cash deed selling the properties to the church.

The clerk and tax collector for the city, Ms. Missy Hyman, stated she prepared the redemption documents transferring the properties from the city to Mr. Desadier. She stated she was working under the assumption that a property owner can redeem property at any time and that the city did not consult with the city's General Council regarding the redemption. The Honorable James E. Jordan, Sheriff of Winn Parish and also a church member, signed the redemption documents

Church check dated September 10, 2002, for \$8,006.97 and signed by Mr. Lamar Tarver.

transferring the properties from the parish to Mr. Desadier for the payment of back taxes. Sheriff Jordan stated that he signed the documents in good faith. He stated further that it was his understanding that there was no prescription period that would limit a property owner from redeeming adjudicated property.

Conclusion

State law provides that a tax debtor has three years to redeem property sold at tax sale. However, state law extends this period for property adjudicated to the parish where the parish has initiated a post-adjudicated sale. Though the Police Jury discussed selling the adjudicated properties they failed to properly notify the appropriate parties as required by state law. Furthermore, the

previous tax debtor (Mr. Desadier in this case) should have been required to pay all taxes, costs, and interest associated with the properties. The Police Jury should have informed the Sheriff's Office that in addition to taxes other cost required collection.

Alternatively, the Police Jury could have sold the properties at a fair price thereby recouping the public's funds. The properties also could have been transferred to the library board through a cooperative endeavor thereby providing the parish the use of the properties and the public funds incurred for clean-up would continue to serve a public purpose. As this transaction was performed, the parish neither has use of the properties nor did the parish recover its costs. It appears that the transaction was improperly performed in a manner that provided the properties to the church at the lowest possible cost without regard to the best interest of the public.

These actions above are in violation of the following civil statutes:

1. R.S. 47:2183, which provides, in part, that the owner of the property has three years from the date of recording of the tax deed to redeem the property.
2. R.S. 47:222 and 47:2222.1, which require that the person redeeming the property shall pay all taxes, interest, and value of improvements made upon the property.
3. R.S. 47:2261 and 2262, which extend the three-year prescription period for adjudicated property once the parish has initiated a post-adjudicated sale and has performed certain notification procedures.

In addition, Mr. Tarver has a fiduciary duty to act in the best interest of the parish. This information has been provided to the district attorney and, at his discretion, he may make a determination into possible violations of state criminal statutes.⁵

⁵ **R.S. 14:134** provides, in part, that malfeasance in office is committed when any public officer or public employee shall (1) intentionally refuse or fail to perform any duty lawfully required of him, as such officer or employee; (2) intentionally perform any such duty in an unlawful manner; or (3) knowingly permit any other public officer or public employee, under his authority, to intentionally refuse or fail to perform any duty lawfully required of him or to perform any such duty in an unlawful manner.

R.S. 42:1461(A) provides, in part, that officials, whether elected or appointed, by the act of accepting such office assume a personal obligation not to misappropriate, misapply, convert, misuse, or otherwise wrongfully take any funds, property or other thing of value belonging to the public entity in which they hold office.

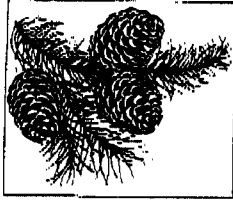
Recommendations

We recommend that the Police Jury and Sheriff's Office establish procedures to ensure that state law, as it applies to the redemption of adjudicated property, is adhered to. These procedures should include, at a minimum:

1. The Police Jury should consult with legal counsel regarding state laws with the goal of creating a greater understanding the parish's rights and obligations with respect to property received through tax sale including (a) the right to use the property for public purposes; (b) the obligation to recover taxes, costs, interest, and value of improvements made by the police jury should the property be redeemed; and (c) the obligation to give legal notice should a post-adjudication sale be initiated.
2. The Police Jury should implement procedures to ensure that public funds spent on adjudicated property are properly reported to the tax collecting authority before allowing redemption.
3. The Sheriff's Office should consult with legal counsel regarding the proper procedures to be followed when property is redeemed. The Sheriff's Office should ensure that during a redemption, all taxes, costs, interest, and value of improvements are recovered before allowing the redemption.
4. Once property is adjudicated to the parish, the Police Jury should use adjudicated property in a manner that is in the best interest of the public.
5. The Police Jury should initiate civil action to recover the improperly redeemed properties or funds spent for improvements and other costs thereon.

Attachment I

Management's Response



WINN PARISH POLICE JURY

P.O. Drawer 951 * Phone (318) 628-5824

Fax (318) 628-7336 * E-Mail: wppj@krocket.net

WINNFIELD, LOUISIANA 71483-0951

May 1, 2003

Lamar Tarver
President

Karen Carlton
Secretary-Treasurer

Delane Crain
Vice-President

District One
Samuel Flowers

District Two
Johnny Ray Carpenter

District Three
Delane Crain

District Four
Don Gilbert, Jr.

District Five
Earl Lasyone

District Six
Lamar Tarver

District Seven
Robert L. "Bob" Hutto

Mrs. Lisa Tucker
Office of the Legislative Auditor
Investigative Audit Division
Fax: 225-339-3987

Dear Mrs. Tucker:

As per our telephone conversations, I have been advised by five of the seven jurors to notify you, stating that the Winn Parish Police Jury has no response to the investigative report on the Redemption of Certain Properties Adjudicated to the Winn Parish Police Jury.

I have left numerous messages for the other two jurors to contact me pertaining to this matter, but neither have returned my phone calls nor come by my office.

Sincerely,

KAREN CARLTON
SECRETARY/TREASURER

kc

LAMAR TARVER
POST OFFICE BOX 964
WINNFIELD, LOUISIANA 71483

April 24, 2003

Legislative Auditor
Post Office Box 94397
Baton Rouge, Louisiana 70804-9397

RE: Redemption of Certain Properties
Adjudicated to the Winn Parish Police Jury

Gentlemen:

This is my personal response to the preliminary draft of the investigative audit report concerning redemption of certain properties adjudicated to the Winn Parish Police Jury. Your report seeks to attack my involvement with the acquisition of the properties by the church. You seek to criticize me because the property was redeemed by a former owner in accordance with the law. I could not have prevented this action as an individual, as the Police Jury president, as an ex-officio member of the library board, or as the First Baptist Church treasurer. There is nothing in the report that I did as an individual that would justify your conclusion that I may have violated any criminal laws. You indicated that my "participation in the transaction does not appear to have been in the parish's best interest." What I would like to know is what participation you are referring to.

You seek to criticize me for being a member of the church that ultimately acquired the property. However, I did nothing as an individual to facilitate that transfer. All I did as an individual was to sign a check from First Baptist Church in my capacity as church treasurer.

I resent the implication that I did anything wrong here. I had no involvement whatsoever with the financial arrangements between Mr. Desadier and the church.

I also would like to point out that, although I am president of the Winn Parish Police Jury, I do not control the actions of that body. In fact, on most items that come before the jury, I do not vote. In addition, I do not have the right as an individual to respond to any criticisms of the Winn Parish Police Jury set forth in your report, although I disagree with most of the criticisms.

In addition, I have been advised by Jacque D. Derr, Attorney at Law, that the conclusion that the property would have brought a substantial sum at a public auction

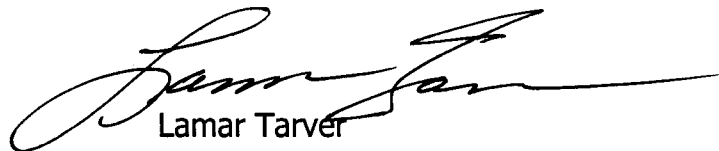
Legislative Auditor
April 24, 2003
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was probably not correct as the title to the property in the hands of the Winn Parish Police Jury was not merchantable. Mr. Derr also indicated that the statute dealing with a post-adjudication sale states very plainly that at the moment before the sale the property could be redeemed upon payment of taxes, interest, costs, and penalties due and owing at that time, together with cost advanced or charged in connection with any request for the post adjudication sale. This particular statute does not even mention the **value of improvements made upon** the subject property and Mr. Desadier could have come to the sale and bid the same exact amount as he paid for the redemption and the property would have been redeemed regardless of whether there was someone present who would have bid more for the subject property.

I feel that singling me out as an individual is totally out of order because your report does not reveal any law that I have broken, or any action that I could have taken as an individual to prevent the redemption of the property and the subsequent sale of the property to the church.

Thank you.

Yours very truly,



Lamar Tarver



Winn Parish Sheriff's Department

J. E. "BUDDY" JORDAN
Sheriff and Ex-Officio Tax Collector

P. O. Box 950 Winnfield, LA 71483
Phone: (318) 628-4611

G. E. DAVIES
Chief Criminal Deputy

M. W. MELTON
Chief Civil Deputy

April 24, 2003

Certified Article No. 7000 0003 9287 7107

Office of Legislative Auditor
P. O. Box 94397
Baton Rouge, LA 70804-9397

Re: Audit Report Concerning Adjudicated Property

Dear Sirs:

Please accept the copy of the attached letter of Mr. Jacque D. Derr, Attorney at Law, as the management's response to the preliminary draft of your investigation report on the redemption of certain properties that were adjudicated to the Winn Parish Police Jury.

Thanks for your time,

Sincerely yours,

A handwritten signature in black ink, appearing to read "James E. Jordan".

James E. "Buddy" Jordan
Sheriff, Parish of Winn

Attachments: (1)

JACQUE D. DERR
ATTORNEY AT LAW
POST OFFICE BOX 908
WINNFIELD, LOUISIANA 71483

COPY

200 North Church Street
Winnfield, Louisiana

Telephone 318-628-3951
Facsimile 318-648-0644

April 24, 2003

Mr. James E. Jordan
Sheriff and Ex-Officio Tax Collector
Post Office Box 950
Winnfield, Louisiana 71483

RE: Audit Report Concerning Adjudicated Property

Dear Sheriff Jordan:

You have requested that I assist you in making a management response to the preliminary draft of the investigative report on the redemption of certain properties adjudicated to the Winn Parish Police Jury. My response will be limited to the areas of the report that concern the Winn Parish Sheriff's office and the fact that I do not comment on other areas of the report does not mean that I agree with any statements or conclusions made by the auditor.

The investigative audit report repeatedly states that the law was violated because a redemption was allowed more than three years from the date of recording of the tax deed as per R.S. 47:2183. I disagree with this conclusion of the auditor because R.S. 47:2262(B) specifically states in pertinent part:

"B. Notwithstanding any provision of law to the contrary, if **subsequent to the expiration of the three-year period**, the tax-debtor, owner, or any person interested personally or as heir, legatee, or otherwise in any immovable property adjudicated to a political subdivision, desires to extinguish his tax indebtedness, he shall pay all accrued taxes and costs in accordance with the laws applicable to redemptions, **provided the title to the adjudicated immovable property remains in the political subdivision**; in such case the payment shall be treated as a redemption."

In the case at hand, the title to the property adjudicated was still vested in the Winn Parish Police Jury at the time of time of the request for redemption. **The action of the Winn Parish Sheriff in redeeming the subject property after the three year period was proper and mandatory under the express terms of R.S. 47:2262(B).**

Mr. James E. Jordan
Sheriff and Ex-Officio Tax Collector
April 24, 2003
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The investigative audit report also implies that the amount of money collected for the redemption was incorrect. R.S. 47:222(D) reads as follows:

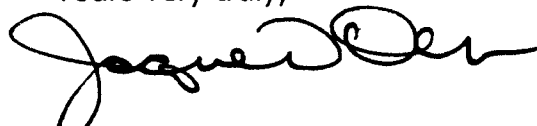
"D. The purchaser of any real estate sold to pay taxes due thereon at a tax collector's sale shall be entitled to receive from the owner or agent of such real estate, in addition to all the other requirements prescribed by law, the value of the improvements **made upon** such real estate by the purchaser thereof at the sale, but nothing in this Paragraph shall be construed as in any manner affecting the rights, claims, and privileges now allowed by law to the purchaser."

At the time of the redemption request, a visual inspection of the property would have indicated that there were no improvements located on the lot. The lot was bare dirt as the improvements that had been on the property had been **removed**. The tax rolls did not reveal any claim for value of the any improvements **made upon** such real estate. No claim for the same was forwarded to the Winn Parish Sheriff by the purchaser at the sale. An examination of the Conveyance Records and Mortgage Records of Winn Parish, Louisiana at the time of the redemption would have revealed no such claim. **Under these circumstances, the redemption by the Winn Parish Sheriff upon payment of all taxes assessed upon the property redeemed subsequent to the tax sale with interest at the rate of 1% per month until redeemed together with costs appears to have been proper.**

I would further point out that the fact that the Winn Parish Sheriff was a member of the church that purchased the property was of no moment as the Winn Parish Sheriff was **required** to redeem the property under the terms of R.S. 47:2262(B). I would further note that the Winn Parish Sheriff has no standing to attempt to rescind the redemption or the subsequent sale of the subject properties to the church.

In the future I will be available to consult with you on questions concerning the proper procedures to be followed when properties are redeemed. Should you have any further questions, please do not hesitate to contact me. Thank you.

Yours very truly,



Jacque D. Derr

JDD:vlr