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May 26, 1977

FILE NO. S-1242

**REVENUE:**

Taxation of Leasehold  
in State-owned Land

Honorable Robert F. A. Stocke  
State's Attorney  
Clay County  
Louisville, Illinois 62858

Dear Mr. Stocke:

I have your letter wherein you ask whether the county supervisor of assessments may assess a highway right-of-way owned by the State which is presently being leased. There is a provision in the lease which provides that the lessee understands that assessments can be made against the lessees of State-owned property.

In your letter you cite sections 19.5 and 26 of the Revenue Act of 1939. (Ill. Rev. Stat. 1975, ch. 120, pars.

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500.5, 507.) Section 19.5 exempts "All property of every kind belonging to the State of Illinois" from taxation.

Section 26 provides as follows:

"When real estate which is exempt from taxation is leased to another whose property is not exempt, and the leasing of which does not make the real estate taxable, the leasehold estate and the appurtenances shall be listed as the property of the lessee thereof, or his assignee, as real estate."

It is my opinion that the county may assess the right-of-way against the lessee because the authority to do so is provided in section 26 of the Revenue Act of 1939. Leasehold interests in State lands may be taxed. (Carrington v. People (1902), 195 Ill. 484; LaSalle County Mfg. Co. v. City of Ottawa (1855), 16 Ill. 418.) In Dee-El Garage v. Korzen (1972), 53 Ill. 2d 1, the court held:

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Although at common law a leasehold interest was considered to be a chattel and not real estate, this court has held that it is within the power of the legislature to declare a leasehold interest to be real estate for the purposes of taxation. (City of Chicago v. University of Chicago, 302 Ill. 455, 458.) The statutory authority to tax a leasehold interest in tax-exempt real estate has been sustained on numerous occasions. (People v. International Salt Co.,

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233 Ill. 223; City of Chicago v. University of Chicago; People ex rel. Paschen v. Hendrickson-Pontiac, Inc., 9 Ill.2d 250; People ex rel Korzen v. American Airlines, Inc., 39 Ill.2d 11; People ex rel. Ducharski v. TWA, Inc., 43 Ill.2d 174.) \* \* \*

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Therefore, the county has authority to make the assessments against the lessee of the State-owned land.

Very truly yours,

A T T O R N E Y   G E N E R A L