

OFFICE OF THE ATTORNEY GENERAL



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CHARLES A. GRADDICK
ATTORNEY GENERAL
STATE OF ALABAMA

NOV 21 1979

ADMINISTRATIVE BUILDING
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MONTGOMERY, ALABAMA 36130
AREA (205) 634-5150

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Honorable Wayland Cooley
Tax Assessor
Madison County
Madison County Courthouse
Huntsville, Alabama 35801

Tax Assessors - Ad Valorem
Taxation

Tax Assessor may reclassify
property under circumstances
stated.

Dear Mr. Cooley:

I have reviewed and carefully considered your recent letter requesting an Attorney General's opinion concerning your authority to reclassify certain property in Madison County. Your letter contains a lengthy discussion of the assessment procedures historically followed in Madison County and the procedure followed in your most recent assessment. You apparently based your most recent assessment and determination of whether property qualified for Class III status upon records then in your office relating to that property. Since the assessment, however, it has been brought to your attention that the records, for various reasons, did not reflect the true status of various pieces of property during the tax year. Your letter then lists numerous specific situations where the property might qualify as Class III residential property but for the fact that no proper legal assessment was made for the year 1979. You express your concern, however, that Section 40-7-9, Code of Alabama 1975 does not permit you to correct errors caused by the failure of owners or

Honorable Wayland Cooley
Page Two

former owners to have their property properly assessed.

You have, however, expressed your desire to help these property owners to see that their property is correctly assessed and to assure that they are not required to pay more tax than they are legally required to pay. Consequently, you ask the following two questions:

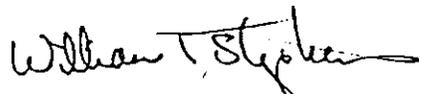
- "1. Do I have any legal authority to reclassify any or all of the above situations as Class III property?
2. If I have the legal authority to class any or all this property as Class III, what procedure would I use?"

It is my opinion that you do have the legal authority to reclassify property previously classified as Class II property where it is shown to your satisfaction that the property was Class III property for the taxable year. Section 40-7-9, Code of Alabama 1975 specifically permits the Tax Assessor to reclassify property and to correct errors in classification, whatever may have been the cause of that misclassification. No specific procedure is required except that it be shown to your satisfaction that the property reclassified as Class III property is properly and legally entitled to that classification and that you record the reasons for your reclassification and any evidence in support of that reclassification.

I hope and trust this sufficiently answers your questions. If we can be of any further assistance to you please let me know.

Sincerely

CHARLES A. GRADDICK
Attorney General
By-


WILLIAM T. STEPHENS
Assistant Attorney General