



**WILLIAM J. SCOTT**  
ATTORNEY GENERAL  
STATE OF ILLINOIS  
SPRINGFIELD  
February 8, 1971

FILE NO. S-268

**REAL ESTATE:**  
**Meandered Lake**  
**Adverse Possession**

Honorable Henry N. Barkhausen  
Director  
Illinois Department of Conservation  
102 State Office Building  
Springfield, Illinois 62706

Dear Sir:

It is my understanding from your recent letter to this office that a question has arisen in connection with land acquisitions by your Department concerning rights and interests, claimed to have been acquired by persons by adverse possession or the payment of taxes, in lands within the meander lines of a meandered lake. You ask if such lands are subject to such claims.

The following appears in 36 Illinois Law and Practice 76:

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"While the State does not have title to the bed of a nonnavigable lake which has not been meandered, it does have title to the bed of a meandered lake, in trust for the people, and a grant of land bordering on a meandered lake extends to the water's edge in its natural condition, and not to the center of the lake."

In Hammond v. Shepard, 186 Illinois 235, the Court said at page 241:

"The law of this State, as repeatedly announced, is, that shore owners on meandered lakes, whether navigable or non-navigable, take title only to the water's edge, the bed of the lake being in the State."

In Fuller v. Shedd, 161 Illinois 462, the Court said at page 493:

" \* \* \* \* \* so long as such meandered lakes exist, over their waters, and bed when covered with water, the State exercises control, and holds the same in trust for all the people, who alike have benefit thereof in fishing, boating, and the like."

Also see Schulte v. Warren, 218 Illinois 108, 117 to the same effect.

In 1 Illinois Law and Practice 562, the following appears:

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"By an extension of the maxim of the common law, 'Nullum tempus occurrit regi,' under which the sovereign was not subject to statutes of limitations except when expressly named, and by the provisions of S.H.A. ch.83, §8, to the effect that the two preceding sections of those statutes, providing for the recognition of title in one who under the proper circumstances pays the legal taxes on land for seven successive years, do not extend to lands or tenements owned by the United States or this state, or to lands held for any public purpose, the doctrine of adverse possession does not operate, and title by prescription may not be acquired, with respect to land owned by the federal government or by the state of Illinois."

Illinois Revised Statutes 1969, Chapter 83, provides as follows:

Paragraph 6.

"Every person in the actual possession of lands or tenements, under claim and color of title, made in good faith, and who shall for seven successive years, continue in such possession, and shall also, during said time, pay all taxes legally assessed on such lands or tenements, shall be held and adjudged to be the legal owner of said lands or tenements, to the extent and according to the purport of his or her paper title. All persons holding under such possession, by purchase, devise or descent, before said seven years shall have expired, and who shall continue such possession, and continue to pay

the taxes as aforesaid, so as to complete the possession and payment of taxes for the term aforesaid, shall be entitled to the benefit of this section."

Paragraph 7.

"Whenever a person having color of title, made in good faith, to vacant and unoccupied land, shall pay all taxes legally assessed thereon for seven successive years, he or she shall be deemed and adjudged to be the legal owner of said vacant and unoccupied land, to the extent and according to the purport of his or her paper title. All persons holding under such taxpayer, by purchase, devise or descent, before said seven years shall have expired, and who shall continue to pay the taxes, as aforesaid, so as to complete the payment of taxes for the term aforesaid, shall be entitled to the benefit of this section: Provided, however, if any person, having a better paper title to said vacant and unoccupied land, shall, during the said term of seven years, pay the taxes assessed on said land for any one or more years of the said term of seven years, then and in that case such taxpayer, his heirs and assigns, shall not be entitled to the benefit of this section."

Paragraph 8.

"The two preceding sections shall not extend to lands or tenements owned by the United States or of this state, nor to school and seminary lands, nor to lands held for the use of religious societies, nor to lands held for any public purpose.

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Nor shall they extend to lands or tenements when there shall be an adverse title to such lands or tenements, and the holder of such adverse title is a minor, insane, mentally ill, imprisoned, out of the limits of the United States, and in the employment of the United States or of this state: Provided, such person shall commence an action to recover such lands or tenements so possessed, as aforesaid, within three years after the several disabilities herein enumerated shall cease to exist, and shall prosecute such action to judgment, or in case of vacant and unoccupied land, shall, within the time last aforesaid, pay to the person or persons who have paid the same, all the taxes, with interest thereon, at the rate of twelve per cent per annum, that have been paid on said vacant and unimproved land.

The exceptions provided herein shall not apply to the provisions of 'An Act relating to claims to real estate', approved by the Seventy-first General Assembly."

In view of the foregoing, it is my opinion that State owned lands in Illinois lying within the meander lines of a meandered lake are not subject to adverse possession or claims under color of title and payment of taxes.

Very truly yours,

A T T O R N E Y G E N E R A L