

# Understanding 16<sup>th</sup> Section

Presented by:

Jackson County School District 2015

# 16<sup>th</sup> Section History:

- ▶ 16<sup>th</sup> Section Lands were created by the United States in 1785. The Ordinance, authored by Thomas Jefferson, was the first act relating directly to the reserving of land for school purposes. The Ordinance adopted as its central unit, a New England style township with an area of thirty-six sections of one square mile each, containing 640 acres.
- ▶ The article stated “there shall be reserved the lot number 16 of every township for the maintenance of the public school within said township.” The lot or section number 16 was used because of its proximity to the center of the township. One Hundred and Six local school districts manage or receive income from the 640,000 acres of 16th section public school trust lands.
- ▶ Funds received from rents are used as a local funding source, and the expendable income may be spent for any educational purposes authorized by law.

## Sections in a Township

A diagram of a township grid, which is a 6x6 square divided into 36 smaller squares, each representing a section. The sections are numbered 1 through 36. The numbering starts in the top right corner (Section 1) and proceeds in a boustrophedon pattern: left-to-right in the first row, then right-to-left in the second row, and so on, alternating rows. The grid is labeled '6 miles' on the left side and '6 miles' on the bottom side, indicating the total width and height of the township. Section 1, located in the top right corner, is labeled '640 acres'.

6	5	4	3	2	1 640 acres
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

# 16<sup>th</sup> Section Land Defined:

- ▶ 16<sup>th</sup> Section lands are not public lands but rather school trust lands. The lands are held in trust for the school children and as such are governed by trust principles which impose one of the highest legal duties of responsible management upon the trustee. No uncompensated uses outside educational facilities are legally permitted. State law places the responsibility of properly managing school trust land in the local Board of Education as trustee. Miss. Code Ann. Section 29-3-57 states that the Superintendent of education is to docket leases and collect rentals.
- ▶ Although local school boards serve as trustees of 16<sup>th</sup> section lands and are responsible for day to day management of the lands and leasing, ***the Secretary of State serves as supervisory trustee*** working with the local school districts to insure the lands are managed well and that the revenue from leasing is maximized. Each 16<sup>th</sup> Section land is classified as one of the following: *Forest; Agricultural; Industrial; Commercial; Residential; Farm Residential; Recreational and Other.*

# *JCSD Procedure for Leasing*

## *16<sup>th</sup> Section Property:*

- ▶ 1. Fill out a lease application and pay a \$250.00 non-refundable deposit. The deposit will go towards a \$750.00 appraisal. The application must include information related to desired use of the property and a descriptive drawing of any structure that will be built or placed on the property.
- ▶ 2. The application is then submitted at the next board meeting for approval by the School Board.
- ▶ 3. If approval is obtained, an appraisal is requested and a rental amount is determined. The applicant is then advised of the rental amount and will either agree or refuse to enter into the lease.
- ▶ 4. Once the rental amount is determined and an agreement to enter into the lease is made, the lease is drafted and sent to the Secretary of State for approval of the rental amount.
- ▶ 5. After approval is received from the Secretary of State, the lease is brought before the School Board for approval.
- ▶ 6. Next, the lessee will come in to sign the lease and pay the first year's rental fee. Additionally, lessee will pay at that time the \$500 balance for the appraisal and a \$14.00 filing fee required by Jackson County Land Records.
- ▶ 7. The lease is then sent to the Board of Supervisors for final approval and the lease is filed with land records.
- ▶ 8. Once a filed copy is received back from the filing clerk, a copy of the lease is sent to the lessee for their records.

# *Rent Determination:*

- ▶ MS State Law requires local Boards of Education to classify the land according to its highest and best use to obtain maximum rental return. The statutes and trust principles require that local Boards of Education obtain fair market rentals in comparison with the private sector. Under Section 29-9-1 (1) of the Mississippi Code, The Board has the obligation as trustee to assure adequate consideration – and through Attorney General Opinion must obtain the highest and best return possible from the 16<sup>th</sup> Section land.
- ▶ 16<sup>th</sup> Section rentals are governed through Miss. Code Ann. 29-3-65 which states that rents are either set by competitive bid procedures (Hunting & Fishing, agricultural and mineral leases) or lands not subject to competitive bid procedures, shall become available for lease, the board of education shall appoint a competent appraiser to appraise the land and report to the board his recommendation for the fair market rental amount.
- ▶ The Board must then determine if the rental amount abides by Miss. Code Ann. Section 29-3-63: “ The board of education shall not lease or extend a lease on land classified as industrial or commercial at an minimal rental less than five (5%) of the current market value, exclusive of buildings or improvements not owned by the school district”



## Case Law Related to Rents

- ▶ *MS AG Op. Pate (August 7, 1998)*, we stated that “the final determination of the fair market rental value of the lands is a non-delegable duty which must be performed by the board. To fail to carry out this duty would be an abdication of the board’s duties as trustee of the lands.”
- ▶ *Case Law: Barber v. Turney, 423 So. 2d 133 (1982); MS. AG OP. Warren 2001-0118 (March 9, 2001)* “The board of education is under an obligation to obtain the highest return possible from 16<sup>th</sup> section land as a trustee for the school children for that district.”

# Case Law Related to Rents Contd.

- ▶ *MS AG Op. Pickett (November 14, 2003), “The Board must exercise its fiduciary duties under the applicable statutes to determine the current market value. The statutes are clear and were designed to prevent abuse regarding the leasing of 16 Section Lands. To lease for less than 5% of the current market value where commercial property is involved would be an abuse of the Board's statutory and fiduciary duties.*
- ▶ *In MS AG Op., Chaney (November 25, 2002), we stated: Under Section 2931 (1) of the Mississippi Code, adequate compensation must be received from the tenants for any use of the land other than use by the school district. See MS AG Op. Bourgeois (July 10, 1995). Donation of State property is prohibited by Section 95, Mississippi Constitution of 1890.*



# Rent Comparisons

## Rent Comparison by School Board

Lease Classification	(2000) GEORGE COUNTY SCHOOL DISTRICT				(2400) HARRISON COUNTY SCHOOL DISTRICT				(3000) JACKSON COUNTY SCHOOL DISTRICT			
	Annual Rents	Acreage	Rent/Acre	Leases	Annual Rents	Acreage	Rent/Acre	Leases	Annual Rents	Acreage	Rent/Acre	Leases
Agricultural:	0.00	0.00	0.00	0	4,500.00	120.00	37.50	1	0.00	0.00	0.00	0
Catfish:	0.00	0.00	0.00	0	0.00	0.00	0.00	0	0.00	0.00	0.00	0
Commercial:	10,962.62	54.42	201.44	4	863,685.86	492.59	1,753.36	22	148,890.00	192.46	773.62	46
Farm Residential:	0.00	0.00	0.00	0	0.00	0.00	0.00	0	0.00	0.00	0.00	0
Forestry:	0.00	0.00	0.00	0	0.00	0.00	0.00	0	0.00	0.00	0.00	0
Industrial:	0.00	0.00	0.00	0	0.00	0.00	0.00	0	0.00	0.00	0.00	0
Other:	12,282.97	52.79	232.68	12	79,879.87	325.96	245.06	34	37,374.82	1,191.95	31.36	50
Recreational:	0.00	0.00	0.00	0	0.00	0.00	0.00	0	76,980.00	357.75	215.18	7
Residential:	0.00	0.00	0.00	0	1,100.00	10.00	110.00	1	29,335.00	49.16	596.72	24
School:	0.00	0.00	0.00	0	0.00	0.00	0.00	0	0.00	0.00	0.00	0

# Rent Comparisons

Lease Classification	(3700) LAMAR COUNTY SCHOOL DISTRICT				(6100) RANKIN COUNTY SCHOOL DISTRICT			
	Annual Rents	Acreage	Rent/Acre	Leases	Annual Rents	Acreage	Rent/Acre	Leases
Agricultural:	10,800.60	410.30	26.32	11	28,827.59	872.58	33.04	7
Catfish:	0.00	0.00	0.00	0	0.00	0.00	0.00	0
Commercial:	563,169.42	558.95	1,007.55	101	513,525.73	72.25	7,107.62	81
Farm Residential:	61,486.35	1,358.96	45.25	62	56,883.60	2,108.22	26.98	32
Forestry:	0.00	0.00	0.00	0	0.00	0.00	0.00	0
Industrial:	0.00	0.00	0.00	0	13,615.00	28.39	479.57	4
Other:	10,235.60	251.59	40.68	29	99,892.50	1,667.12	59.92	33
Recreational:	14,896.21	176.39	84.45	3	5,415.00	85.56	63.29	6
Residential:	61,930.05	521.12	118.84	320	87,301.78	174.16	501.27	139
School:	0.00	0.00	0.00	0	0.00	0.00	0.00	0

# *Search Sixteenth Section Leases in the State:*

Secretary of State Link showing all 16<sup>th</sup> Section leases, current and past, as well as the rents, size of parcels and leases on file with the Secretary of State's Office

These leases are not “real time” as there is delay due to leases at various levels of approval and filing.

Jackson County School District's School Board Number is 3000

<http://www.sos.state.ms.us/PublicLands/16th/appwraps/LeaseSearch.asp>

## *Payment of Rent:*

- ▶ It shall be the duty of the superintendent of education to collect promptly all rents due and all principal and interest due upon loans and investments of sixteenth section funds. Upon a sixty (60) day default in payment of any rentals according to the terms of such lease, the lease ***shall be declared terminated*** unless the board of education finds extenuating circumstances were present, and the board shall inaugurate the proper legal proceedings to terminate such lease.
- ▶ The superintendent of education, with the approval of the board of education, may employ an attorney or other person to aid in collecting any such funds when in his opinion the same is necessary, and may pay reasonable compensation therefor out of funds collected, not to exceed in any case twenty-five percent (25%) of the amount actually collected.

# *Secretary of State Role in 16<sup>th</sup> Section Lands:*

- ▶ Once a rental fee is determined, the terms of the lease are submitted to the Secretary of State for his approval and signature prior to execution by the school district and the tenant. The Secretary of State exercises general supervision of the local school districts' management of the land. Local School Districts are required to file copies of all leases which they grant on 16<sup>th</sup> Section Land as well as reports concerning their management of the lands and income received from leasing and investment of funds. The Secretary of State monitors the local school districts to insure compliance with laws regulating the management of Sixteenth Section Land. The Secretary of State also provides legal assistance and training to the districts.
- ▶ Additionally, the County Board of Supervisors approves the amount of rent in all leases in which the rent is determined by appraisal. The Boards of Supervisors are not required to approve rental amounts in those leases in which rent is determined by competitive bids.

# *Lease Terms:*

- ▶ Under Miss. Code Ann. Section 29-3-69, the board of education may lease school trust lands classified as industrial, commercial, farm-residential, residential, recreational, catfish farming or other for a term not exceeding forty (40) years for a ground rental, payable annually.



# *Rent Escalation:*

- ▶ Miss. Code Ann. Section 29-3-65 allows the board of education to use rent escalation clauses or other such devices to adjust rental amounts during the lease term. Owners of leaseholds under a lease granted prior to July 1, 1978, which have improvements constructed thereon, shall not be charged for such improvements in successive lease periods unless the lease contract clearly specifies otherwise.
- ▶ All leases, except leases of residential or farm-residential lands, made for a ground rental shall contain rent adjustment clauses or other such provisions requiring that the consideration for every lease of such lands shall be adjusted not less than once every ten (10) years from the date of the lease to reflect the current fair market rental value of the lands, exclusive of any improvements thereon. Our Board has adopted the use of appraisals for rent adjustments to take place every 8 years.

# Rent Escalation Clauses

- ▶ The rent adjustment clause cannot exceed the fair market rental value of the lands, exclusive of improvements thereon, as of the rental adjustment dates.
- ▶ If a rent adjustment clause is not contained in a lease of lands which are or which are to become residential or farm-residential land, the reasons for not including such clause in the lease shall be stated in the lease and entered on the minutes of the board. In the case of uncleared lands, the board of education may lease them for such short terms as may be deemed proper in consideration of the improvement thereof, with the right thereafter to lease or to hold on payment of a ground rental. [Owners of Leaseholds under a lease granted prior to July 1, 1978, which have improvements constructed thereon, shall not be charged for such improvements in successive lease periods unless the lease contract clearly specifies otherwise.]

# *Appraisals:*

- ▶ The cost of the appraisal under this section shall be paid through available 16<sup>th</sup> section school funds or other school funds of the district. Only the initial appraisal ordered at the application phase is paid by the lessee, any further appraisals for adjustment purposes is paid through the school's 16<sup>th</sup> section funds.

# Rent Escalation/Commercial:


- ▶ For our commercial leases, JCSD rents are adjusted according to the Consumer Price Index (CPI). The Consumer Price Index is set forth by the government and takes into account more data than you and I would care to know to determine market change for any given month/year. CPI rental adjustments are calculated by taking the previous year's CPI rate for the anniversary month of the base lease and dividing it by the current year's CPI for the same month to determine a change, if any, in the index.
- ▶ For example: If a commercial rent is \$4,500.00 annually and has an April anniversary date, you look at the CPI table for the previous April (236.240) and then look at the value for April 2015 (235.982). Divide last year's value by this year's value ( $236.240 / 235.982 = 1.0011$ ) which gives you the current change in value. Next, take the current rent for the parcel (\$4,500) and multiply it by the change in value (1.0011) and that will give you the current rental due (\$4,504.95). So for 2015, you will pay the base rental amount of \$4,500 plus the CPI increase, which in this case was \$4.95 for a total due for 2015 \$4,504.95. This \$4,504.95, will now be the base amount due for April of the following year.
- ▶ CPI Indexes are calculated and posted the month after. You can view the CPI Tables by going to <http://data.bls.gov/pdq/querytool.jsp?survey=cu>

☐ include graphs ☐ include annual averages

Data extracted on: June 1, 2015 (12:23:46 PM)

## Consumer Price Index - All Urban Consumers

Series Id: CUSR0000SA0  
 Seasonally Adjusted  
 Area: U.S. city average  
 Item: All items  
 Base Period: 1982-84=100

Download:  [xlsx](#)

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	HALF1	HALF2
2005	191.6	192.4	193.1	193.7	193.6	193.7	194.9	196.1	198.8	199.1	198.1	198.1		
2006	199.3	199.4	199.7	200.7	201.3	201.8	202.9	203.8	202.8	201.9	202.0	203.1		
2007	203.437	204.226	205.288	205.904	206.755	207.234	207.603	207.667	208.547	209.190	210.834	211.445		
2008	212.174	212.687	213.448	213.942	215.208	217.463	219.016	218.690	218.877	216.995	213.153	211.398		
2009	211.933	212.705	212.495	212.709	213.022	214.790	214.726	215.445	215.861	216.509	217.234	217.347		
2010	217.488	217.281	217.353	217.403	217.290	217.199	217.605	217.923	218.275	219.035	219.590	220.472		
2011	221.148	221.904	223.044	224.060	224.869	224.841	225.419	226.082	226.676	226.811	227.157	227.145		
2012	227.759	228.285	228.866	229.172	228.785	228.626	228.584	229.911	231.104	231.741	231.202	231.165		
2013	231.444	232.803	232.245	231.672	231.990	232.583	232.980	233.413	233.773	233.903	234.038	234.697		
2014	235.128	235.356	235.790	236.240	236.950	237.348	237.596	237.409	237.626	237.753	237.067	236.284		
2015	234.677	235.186	235.740	235.982										

Series Id: CUUR0000SA0, CUUS0000SA0  
 Not Seasonally Adjusted  
 Area: U.S. city average  
 Item: All items



# Use of Sixteenth Section Land:

- ▶ 16<sup>th</sup> Section land can be used by the school district having jurisdiction and control of the land; without paying fair market rental. The land can be used by the school for school purposes such as school buildings. Any other persons and entities, ***including federal, state and local governments***, must pay fair market rental for the use of 16<sup>th</sup> Section Land. See MS AG Op. Bourgeois (July 10, 1995). Donation of State property is prohibited by Section 95, MS Constitution 1890.
- ▶ Upon leasing, the law requires that all timber be reserved to the local school district. No timber may be cut and used by the lessee except for fuel and necessary repairs and improvements on the lease premises. However, before cutting any timber for firewood, repairs or improvements the lessee should obtain written permission from the Mississippi Forestry Commission.
- ▶ The following uses of 16<sup>th</sup> Section timber by the lessee are not authorized: selling of firewood; allowing others who do not have a lease to cut firewood; cutting and selling timber to buy fencing, posts and construction materials; cutting and selling timber to be cut in dimensioned lumber for construction or addition to leaseholder's home, barns, or outbuildings that are lessee-owned improvements, or any other indirect use; or selling or trading timber.



# *Payment of Land Taxes:*

- ▶ **Miss Code 29-3-71** states 16<sup>th</sup> Section lands reserved for the use of schools, or lands reserved or granted in lieu of or as a substitute for the sixteenth sections, **shall be liable**, after the same shall have been leased, to be taxed as other lands are taxed during the continuance of the lease, but in case of sale thereof for taxes, only the title of the lessee or his heirs or assigns shall pass by the sale. Payment of land taxes for the Sixteenth Section property is paid to the local county tax collector's office.
- ▶ If a new lessee enters into a lease with the school district, the new lessee is not responsible for taxes not paid by the prior lessee.

# *Sublease/Assigning:*

- ▶ ***Miss. Code Ann. 29-3-69*** Prohibits subleasing or assignment of any lease of school trust lands executed after July 1, 1978, shall only be allowed when provided in the lease contract or at the discretion of the board of education; provided that permission to sublease or assign shall not be arbitrarily withheld.

# *Hunting & Fishing Leases:*

- ▶ After any parcels of 16<sup>th</sup> Section lands have been classified, all land which has been classified as forest land and which is not now under lease shall hereafter not be leased. The lands classified as forest lands which may be under a lease that has a fixed date of expiration shall not be re-leased when said lease expires; nor shall the lessee be permitted to cut or remove any timber therefrom except according to the terms of his lease.
- ▶ Such lands shall be reserved and kept as forest lands. Provided further, that the mineral rights in all such lands may be leased for oil, gas, or mineral purposes, and the board of education may grant leases to the surface of said lands classified as forest, which are limited to hunting and fishing rights and activities in relation thereto, and which shall not extend for a period longer than fifteen (15) years. *Our Hunting & Fishing leases are leased for a period of 5 years and run from July 1 to June 30.*

# Hunting & Fishing Bid Process

- ▶ It shall be the duty of the board of education to lease said hunting and fishing rights at public contract after having advertised same for rent in a newspaper published in said county or, if no newspaper be published in said county, then in a newspaper having a general circulation therein, for two (2) successive weeks, the first being at least ten (10) days prior to said public contract.
- ▶ The bids must be submitted in duplicate and must include a money order or certified check in the amount of \$100. This fee will serve as a bid bond for the successful bidder and is forfeited should the bidder fail to enter into the lease. The minimum bid established by our school board on any H&F lease is \$5.00.

# Hunting & Fishing Bid Process

- ▶ The board of education, at its option, may reject all bids or accept the highest and best bid received in response to the advertisement, or the board of education may hold an auction among those who submitted bids in response to the advertisement, provided that three (3) or more persons who submitted bids in response to the advertisement participate in the auction.
- ▶ The opening bid at the auction shall be the highest bid received in response to the advertisement. Provided that if the board of education receives an acceptable bid or elects to hold an auction, the most recent holder of said hunting and fishing rights if it shall have made an offer, shall have the final right to extend its lease for the term advertised at the annual rental equal to said highest offer received by the board of education, or equal to the highest bid offered at the auction, as the case may be.

# Hunting & Fishing Cont.

- ▶ If no bid acceptable to the board of education is received after said advertisement, the board of education may, within ninety (90) days, lease same by private contract for an amount greater than the highest bid previously rejected. If the board of education determines to lease the land by private contract, the most recent holder of said hunting and fishing rights, if it shall have made an offer, shall have the final right to extend its lease on the same terms and conditions as those contained in the private contract proposed to be accepted by the board of education.
- ▶ The winning bid will have ten (10) days to enter into the contract for lease and to pay the first year's rental, minus the \$100 bond.



# Hunting & Fishing Lands

## Forestry Management Plans for H&F Properties:

<http://www.sos.ms.gov/Applications/Pages/16th-Section-Forest-Management.aspx>

- ▶ Sixteenth Section Lands classified as Forest Land are not open to hunting by the general public. ***Only the holder of a valid lease of the hunting and fishing rights may hunt on Sixteenth Section Forest Land.*** If there is no lease of the hunting and fishing rights on Forest Land, the school district must post the land and prevent hunting and fishing on the land.

# Land Managers By County:

- ▶ *If you witness any abuse of Sixteenth Section Lands please contact the land manager or superintendent of education of the local school district and to the Public Lands Division of the Mississippi Secretary of State's office.*
- ▶ *Who to contact regarding Sixteenth Section Land:*  
<http://www.sos.ms.gov/Applications/Pages/16th-Section-Land-Managers.aspx>

# Mississippi Statutes Governing 16<sup>th</sup> Section Lands

<http://law.justia.com/codes/mississippi/2013/title-29/chapter-3/in-general/>