

Federal Land Banks or as the consolidated obligation of all of such banks, which are guaranteed by the United States under the provisions of that section.”

It was held that the Federal Land Bank is a federal instrumentality in *Federal Land Bank of St. Paul v. Bismarck Lumber Co.* (1941), 314 U. S. 95, 102, 86 L. Ed. 65, 62 S. Ct. 1.

As the Indiana State Teachers' Retirement Fund is permitted to invest in securities issued by federal instrumentalities only when the same are fully guaranteed by the United States, I am of the opinion that your Board is not authorized to invest Teachers' Retirement Funds in Federal Land Bank Bonds.

OFFICIAL OPINION NO. 50

December 5, 1956

Hon. Ora A. Kincaid
State Representative
128 W. Fordice Street
Lebanon, Indiana

Dear Representative Kincaid:

This is in response to your request for my Official Opinion in answer to the following questions:

“The question has arisen in the City of Lebanon on whether a City, in an Annexation Ordinance, has the authority to specify that unplatted farm land included in an Annexation must be assessed for tax purposes as farm land is assessed in Rural territory. That is, no increase in assessment would be made by reason of the fact that farmland is within the municipal boundaries. The wording in the Ordinance is as follows:

‘Any land in said annexed territory which is now used for agricultural purposes shall be assessed as agricultural land is assessed in rural territory, until it is subdivided for residential or commercial purposes. Said land may continue such agricultural use until such time as it is subdivided for residential or commercial purposes.’

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“The undersigned requests an official opinion on this question in view of Acts 1905, ch. 129, sec. 242, p. 19; 1955, ch. 269, sec. 1, p. 720; Burns’ 48-701 which states that a city may set the terms and conditions of said annexation.”

Reference is made to the Acts of 1905, Ch. 129, Sec. 242, as amended, as found in Burns’ Indiana Statutes (1950 Repl., 1955 Supp.), Section 48-701, the first two paragraphs of which read as follows:

“* * * Section 242. The common council shall have power, by ordinance, to declare and define the entire corporate boundaries of such city, and such ordinances, properly certified, shall be conclusive evidence, in any court or proceeding, of the boundaries of such city, except as provided in the next section. Such ordinances defining the entire city boundary may include contiguous territory, whether platted or not, not previously annexed, *and may include such terms and conditions, as hereinafter defined*, as may be deemed just and reasonable by said common council, and such annexation shall be binding, unless such newly annexed territory shall be within the limits of another town or city, in which case there may be an appeal, as hereinafter provided. Said common council may also, by separate ordinance, not purporting to define the entire boundaries of such city annex contiguous territory, whether platted or not, to such city, *and may include such terms and conditions, as hereinafter defined*, as may be deemed just and reasonable by said common council and a certified copy of such ordinances shall be conclusive evidence in any proceeding that the territory therein described was properly annexed and constitutes a part of such city, except as provided in the following sections. Immediately after the passage of every such ordinance as provided for in this section, the same shall be published for at least two (2) consecutive weeks in a daily newspaper of general circulation published in such city.

“The terms and conditions applicable to any such annexation may relate to any matter reasonably and fairly calculated to render such annexation just and

*equitable both to the city, its property owners and inhabitants, and to the annexed territory, its property owners and inhabitants, including, but not restricted to, such matters as (a) postponing the effective date of such annexation, (b) impounding in a special fund in whole or in part the municipal property taxes to be imposed upon the annexed territory after annexation shall take effect, in such amount and for such period of time, not to exceed three (3) years, as said common council may determine, and using such impounded taxes solely for the benefit of such annexed territory, its property owners and inhabitants, in the extension of municipal services and benefits and the making of municipal or public improvements in the annexed territory, or (c) establishing equitable provisions for the future management and improvement of the annexed territory and for the rendering of needed services. * * ** (Our emphasis)

From the first paragraph of the above-quoted excerpt, it is to be noted that the annexation ordinance "*may include such terms and conditions, as herein defined,*" having reference to the "*terms and conditions applicable to any such annexation*" as stated in the second paragraph. The terms and conditions there stated do not include the specific power to make a binding classification of real estate for tax assessment purposes. Nor do I believe that such power may be considered as necessarily implied or reasonably germane to the terms and conditions mentioned. Supporting the above conclusion is the fact that the Acts of 1919, Ch. 59, Sec. 328, as found in Burns' Indiana Statutes (1951 Repl.), Section 64-2814, provides as follows:

"The assessments of real and personal property, as made and returned by the township assessor and other assessing officers and boards, shall serve as the assessments for city and town purposes." (Our emphasis)

In other words, the classification of land for tax assessment purposes is but a standard by which to determine valuation, which is normally and by statute the function of tax assessing officials.

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Also, it may be noted that the Acts of 1905, Ch. 129, Sec. 243, as amended, as found in Burns' Indiana Statutes (1950 Repl., 1955 Supp.), Section 48-702, authorizes a remonstrance against the proposed annexation only by *group* action, necessitating an appeal "by either a majority of the owners of land in the territory or by the owners of more than seventy-five [75] per cent in assessed valuation of the real estate in the territory * * *." If, for example, the annexation ordinance were to provide for an increase in assessment and were considered as binding, an appeal from such would require the necessary group action and deprive affected property owners of their *individual* rights to have the assessment reviewed by the procedures now afforded under applicable taxing statutes.

In view of the above reasons, I must state that in my opinion the provision in said ordinance relating to the manner of assessing the annexed territory is not binding, but should be considered only as a recommendation to the proper taxing officials. Therefore, it is my opinion that the common council of a city does not have the authority, under existing statutes, by the enactment of an annexation ordinance to adopt a binding classification of land for tax assessment purposes.

OFFICIAL OPINION NO. 51

December 7, 1956

Mr. Bernard M. Sleeth
Secretary-Treasurer
State Board of Embalmers and Funeral
Directors of Indiana
406 South Harrison Street
Shelbyville, Indiana

Dear Mr. Sleeth:

Your letter, in which you request my Official Opinion, has been received and reads, in substance, as follows:

The Board has directed me to request an official opinion from you concerning the legality of certain advertising used by the A and B Mortuaries.