Mr. R. B. Stewart,
Vice-President and Controller,
Purdue University,
Lafayette, Indiana.

Dear Sir:

In your letter you state that a request has been made by the Trustees of Purdue University to the Housing and Home Finance Administrator that said Administrator relinquish and transfer to the University all contractual rights of the government of the United States with respect to temporary housing located on the University campus; that this request was made pursuant to Section 505 of the Lanham Act, as added by Public Law 796 of the 80th Congress, approved June 28, 1948. Said section contains the following provisions:

"* * * The provisions of section 313 of this Act (and the contractual obligations of the educational institution to the Federal Government with respect thereto) shall cease to apply to any temporary housing to which rights are relinquished or transferred under this section 505 if (and only if) the request therefor is supported by a resolution of the governing body of the municipality or county having jurisdiction in the area specifically approving the waiver of the requirements of said section 313. * * *" (Our emphasis.)

Section 313, referred to in the above quotation, appears in the U. S. C. A. as Section 1553 of Title 42. Said section provides that the Administrator shall remove, as promptly as may be practicable in the public interest, all housing under his jurisdiction which is of a temporary character not later than January 1, 1950.

In order to cause the removal provisions referred to to cease to apply to such temporary housing to which the rights of the government are relinquished or transferred, the request therefor, as set forth in the above quoted part of the act, must be "supported by a resolution of the governing body of the municipality or county having jurisdiction in the area" approving the waiver of the requirements.
Upon this situation you request our opinion as to whether the Trustees of Purdue University can be considered as the proper body to adopt such resolution. This involves the question as to whether said trustees may be considered as being the "governing body of the municipality—having jurisdiction in the area."

The term "municipality" in its strict sense is usually considered as meaning the political subdivision of the state.

Corporation of San Felipe de Austin v. State (1921), 111 Texas 108;
Penick v. Foster (1907), 129 Ga. 217;
Booten v. Pinson (1915), 77 W. Va. 412;
City of Pineville v. Meeks (1934), 254 Ky. 167.

However, the term "municipality" may also be used in a broader sense to include public or political corporations which are not strictly municipalities.

Hanson v. City of Cresco (1906), 132 Iowa 533.

A board of education has been held to be a municipality for certain purposes.

Brown v. Board of Education (1900), 108 Ky. 783;
Spalding Lumber Co. v. Brown (1898), 171 Ill. 487;
Mack v. President & Trustees of School Board (1939), 11 N. Y. Supp. (2d) 311;

It has been held that a metropolitan utility district is, within a broader sense, a municipality.

Nelson-Johnston and Doudna v. Metropolitan Utilities District (1940), 137 Neb. 871.

Next to be considered is the nature of the Trustees of Purdue University. The history of the statutes creating and regulating the Trustees of Purdue University is set forth in the case of Russell v. Trustees of Purdue University (1929), 201 Ind. 367. These statutes create a body corporate under the name of "The Trustees of Purdue University" and
provide that they shall take in charge, have, hold, possess and manage the property for the use of said institution. They have power to organize said University in conformity with the purposes set out in the Acts of Congress, the benefits and provisions of which were originally accepted by the State and do all acts necessary and expedient to keep said institution in operation and to make all by-laws, rules and regulations required or proper to conduct and manage the same. See Chapter 56, beginning at Section 28-5601 of Burns' 1933, and particularly Section 28-5607.

In the *Russell* case, referred to above, it is said at page 382:

"Purdue University constitutes no part of our system of common schools and has no direct connection with that system; but it is an institution of learning primarily endowed by Congress, and continued in existence very largely by appropriations made by the General Assembly of this state. It is, therefore, an educational institution sustaining relations to the people at large analogous to those occupied by other public schools and colleges of the state, maintained at public expense, and one in which all the inhabitants of the state have a common interest. * * *

It is a body corporate but is public in nature and for public purposes. It is to a large extent dependent for its support and operation upon taxes levied and collected under the sovereign authority of the state.

Renumbered Section 305 of the Lanham Act (Title 42, Section 1535) provides that in carrying out the provisions of the act, consultation shall be had with local officials and local housing authorities to the end that projects constructed so far as may be practicable conform to local planning. It has been held that the Administrator did not have to make such projects conform to local building regulations.

*United States v. City of Chester (1944), 144 Fed. (2d) 415.*

Consequently, such temporary housing, when erected, may not conform to local building restrictions and such matters.

In the case of *People ex rel. Board of Trustees of University of Illinois v. Barrett, Attorney General (1943), 382 Ill.*
321, 46 N. E. (2d) 951, the nature and character of the University of Illinois was before the court. Said University originally came into being by virtue of the United States grants and its history and statutory regulation is very similar to that of Purdue University. The court held that while the University was not strictly a municipal corporation, it was, nevertheless, a public corporation with absolute power to do everything necessary in the management, operation and administration of the University under the laws of the State relating to said University.

There are various fields of jurisdiction which are exercised by different bodies. So the question involves which field of jurisdiction is intended. Since there is involved the Federal government releasing something which it had assumed under the Lanham Act, it would seem that it would not refer to criminal jurisdiction as that field was never taken over or impaired by the Federal government. (Sec. 1547, Title 42.) Nor was the general field of civil jurisdiction taken over by the Federal government. The Federal government did, however, take over the right to plan, design, construct, remodel, extend, repair, or demolish structures, buildings, improvements and community facilities, subject only to the requirement of consultation with local officials, and that they would be removed in the time specified in Section 313 of the Act. Consequently, it seems logical to assume that the field of jurisdiction intended is the field taken over by the Federal government until the time of removal of the structure.

It, therefore, seems to me that when the various provisions of the Lanham Act are considered, one of the purposes of requiring the local governing body to waive removal by the Federal government is to effect the acquiescence of the local governing body in such temporary housing which may not conform to local building restrictions remaining where located. Thus, the local governing body intended would be the body having jurisdiction over property and buildings in the area where the temporary housing is located.

The campus property of Purdue University is located outside of the corporate limits of any town or city and I am of the opinion that the authority of the county in which Purdue University is located would not have jurisdiction to impose building requirements or restrictions upon Purdue University;
that those are matters to be regulated by the legislature and are presently under the control of the Board of Trustees.

It is my opinion that while the Trustees of Purdue University are not, in its strictest sense, a municipality, it is the governing body having absolute power under our present statutes in the management, operation and administration of the property of said University and, therefore, may be said to be the governing body having jurisdiction in the area of the subject housing project.

OFFICIAL OPINION NO. 69

November 24, 1948.

Mr. Joseph McCord, Director,
Department of Financial Institutions,
State House,
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion on the following question:

"May a banking institution chartered under the laws of the State of Indiana invest in the common stock of an affiliate corporation to the extent of its legal investment or loan limit?"

It is a well recognized principle of statutory construction that all the language used in the statute will be deemed to have been intentionally used to effect the meaning of the Act, and a further rule requires effect to be given to the whole statute and every part thereof.

Koercher v. Ind. Associated Telephone Corp. (1937), 211 Ind. 447, 7 N. E. (2) 282;
Bienz v. State (1934), 206 Ind. 482, 190 N. E. 170;
Indiana Creosoting Co. v. McNutt (1936), 210 Ind. 656, 5 N. E. (2) 310.