than wheels, jacks, skirting, or other temporary support.” (Our emphasis)

Since the above definition extends even so far as to include self propelled vehicles which may otherwise qualify under the definition there stated, it seems clear that such mobile homes as may be self propelled would clearly constitute a motor vehicle which is specifically includible under the Federal Soldiers’ and Sailors’ Relief Act as being “personal property” to which the Federal Act applies. Further, all other kinds of mobile homes which may be includible within the above-quoted statutory definition would clearly possess the characteristics of personal rather than real property.

Therefore, I find no justification for concluding that mobile homes should be classified for taxation purposes other than as personal property, except as heretofore explained. Consequently, it is my further opinion that mobile homes should be classified as personal property and when owned by a service-man who is a nonresident of Indiana on duty in Indiana pursuant to orders of the Armed Services Command, such mobile home is exempt from taxation by the State of Indiana even though physically located in this state, pursuant to the Soldiers’ and Sailors’ Relief Act, the exemption therein provided being applicable to such property unless it is used in or arises from a trade or business otherwise subject to the jurisdiction of Indiana.

OFFICIAL OPINION NO. 63

December 4, 1959

Honorable L. Parker Baker
State Representative
Hamilton County
R. R. #1
Cicero, Indiana

Dear Representative Baker:

In your recent letter concerning certain provisions in Sec. 4 of the Township Planning and Zoning Act, the same being Ch. 46 of the Acts of the General Assembly of Indiana, 1959,
as found in Burns' (1959 Supp.), Section 53-1204, you requested my opinion concerning the nature of remonstrances to be filed against a petition requesting joinder of the township with the adjacent city for planning and zoning purposes. The above section reads as follows:

“If a township desires to join a city for planning and zoning purposes, a petition, signed by fifty [50] freeholders, shall be filed with the township trustee. The township trustee and the township advisory board shall hold a hearing within thirty [30] days from the date of the filing of the petition. Public notice, giving the place, date and time of such hearing shall be given in a newspaper of general circulation in the township, not less than ten [10] days prior to the date of the hearing. If a remonstrance duly signed by a majority of the freeholders of the township residing outside the limits of any city or town is filed on or before the date of the hearing no action shall be taken on the petition: Provided that where no remonstrance is filed, the township trustee and the township advisory board shall send the petition forthwith to the city's plan commission requesting joinder; Provided, That no petition for joinder to a city's plan commission once rejected pursuant to remonstrance as herein provided, may be refiled sooner than one [1] year after such remonstrance.” (Our emphasis)

You have specifically asked me as follows: “Does the phrase ‘no remonstrance’ refer only to the absence of a remonstrance signed by a majority of the freeholders, or does it refer to the absence of any remonstrance of any kind, so that the filing of a remonstrance by less than a majority would prevent the sending of the petition for joinder by the township to the city plan commission?”

In my study of this statute in its entirety it does not appear to me that there is any authorized way to secure such zoning joinder of township and city except by the filing of the petition by the required number of freeholders, and the forwarding of the petition by the trustee and advisory board to the city plan commission. The only authority for the forwarding of the petition is the mandatory requirement that the same
be forwarded if "no remonstrance" is filed. Therefore if this phrase "no remonstrance" does have reference to the absence of any remonstrance of any kind, rather than the absence of a remonstrance signed by a majority of the freeholders of the township residing outside the limits of the city, then the filing of a remonstrance by one person, whether he be a resident freeholder or not, would prevent the forwarding of the petition. In such event it would appear foolish and absurd for the General Assembly to require the signatures of a majority of the freeholders as a condition precedent to the mandatory rejection of the petition, when the filing of any kind of remonstrance would remove the only authority which the trustee and advisory board have to forward the petition.

As a matter of statutory construction it is presumed that the Legislature does not intend an absurdity, and such a construction is to be avoided, if possible, by a reasonable construction of the statute.


This is a special statutory proceeding, and the only affirmative authority for the filing of any remonstrance is the authority to file a remonstrance signed by a majority of the freeholders of the township residing outside the limits of any city or town. It therefore does not appear reasonable to construe the phrase "no remonstrance" as having reference to the absence or lack of filing of a type of remonstrance the filing of which would be unauthorized. At the most, such a remonstrance not signed by a majority of the freeholders would be an informal expression of opinion.

When the word "no" is used in this manner to indicate exclusion of something which is not specifically qualified or limited in amount or nature, the word "no" does not indicate a complete lack of qualification or limitation regardless of context. In the case of State ex rel. Wayne v. Sims, Auditor (1955), 141 W. Va. 302, 90 S. E. (2d) 288, the Supreme Court of West Virginia was concerned with the constitutional restriction that in a special session of the Legislature it could enter upon "no business" except that stated in the proclamation by which it was called together. The matter in question was the authority of the Senate in such a special session to
approve or disapprove appointments made by the Governor, such approval being required by the constitution of West Virginia. The Court had no difficulty determining that the words "no business" had reference to legislative business, and that it did not preclude the Senate from considering the recess appointments of the Governor at any time when the Legislature is constitutionally convened.

In the case of McGill et ux. v. Lewis (1941), 61 Nev. 28, 118 P. (2d) 702, the Supreme Court of Nevada was concerned with the statutory restriction that "no deed of conveyance" of a homestead shall be valid unless both husband and wife execute and acknowledge the same. Although this restriction was unqualified as to types and kinds of deeds of conveyance, the Court, without any attempt to justify its conclusion, merely stated that it is sufficient to say that the words "no deed of conveyance" used in the statute do not include in their meaning a sheriff's deed made pursuant to sale on execution.

The words "no property" were subject to construction in the case of Ervay v. Hill et ux. (1907), 46 Wash. 457, 90 P. 590, and the Supreme Court of Washington stated as follows (p. 592):

"The legislative announcement is that section 5248a be amended, and, while the comprehensive words 'no property' are used in the act, such words must be construed as referring only to the character of property described in the section amended."

It is my conclusion that a petition for joinder of the township and city for planning and zoning purposes, duly filed by fifty (50) freeholders of the township, must be forwarded to the city's plan commission unless a remonstrance duly signed by a majority of the freeholders of the township residing outside the limits of any city or town is filed with the township trustee on or before the date of the hearing on the petition, as provided in Burns' 53-1204, supra.