

3292.

## APPROVAL, BONDS OF WYANDOT COUNTY, \$13,979.73.

COLUMBUS, OHIO, April 22, 1926.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*

3293.

## DISAPPROVAL, BONDS OF VILLAGE OF UNIVERSITY HEIGHTS, CUYAHOGA COUNTY, \$71,212.11.

COLUMBUS, OHIO, April 23, 1926.

Re: Bonds of Village of University Heights, Cuyahoga County, \$71,212.11.

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.*

GENTLEMEN:—The transcript for the foregoing issue of bonds shows that said bonds are issued under the provisions of section 3914 of the General Code, and in anticipation of the collection of special assessments.

The transcript also discloses that the notice of the filing of the assessments as required by section 3895 of the General Code was given by posting, and not by publication as required therein.

The solicitor of the village has furnished his statement to the effect that this notice has not been published in any newspaper. He contends that such publication is not required in view of the provisions of section 4228 and 4232 of the General Code, which latter section gives the council the option of publishing notices, ordinances, resolutions, statements and orders where there is no newspaper printed in the municipality, either by posting copies thereof, or by publication in any newspaper printed in Ohio and of general circulation in such municipality.

However, section 3895 of the General Code as found in the chapter of statutes on assessments must be considered in its application to that chapter, and therefore, in addition to the general provisions of sections 4226 and 4232 of the General Code, section 3895 is specific and mandatory in its terms. Said section is as follows:

“Before adopting an assessment made as provided in this chapter, the council shall publish notice for three weeks consecutively, in a newspaper of general circulation in the corporation, that such assessment has been made, and that it is on file in the office of the clerk for the inspection and examination of persons interested therein.”

Consideration must also be given to its application for the reason that it provides for notification to property owners on a specific improvement and is not necessarily of particular interest to the inhabitants of the municipality generally, as would seem to be the intention of section 4232 of the General Code.

The ordinances, notices, etc., named in sections 4228 and 4232 of the General Code are general statutes, applicable to all the inhabitants of the municipality.

In the case of *Maple Heights vs. Holtz*, 100 O. S., 264, it was held

“Certainly the same reason that would impel the legislature to require a notice to be published before the first assessment is made would with equal force apply to a second and additional assessment, \* \* \*. Entertaining these views, we do not feel warranted in attempting by judicial construction to either read anything into or anything out of the statutes as enacted.”

I am therefore of the opinion that it is not permissible to read anything out of this specific statute, and that the provisions thereof that notice shall be given for three weeks consecutively, in a newspaper of general circulation in the corporation is mandatory, and that any other form of compliance would necessarily be reading a different provision into or out of this statute.

You are therefore advised that the property owners interested in the payment of assessments to meet these bonds have not been notified of said assessments as required by law, and for that reason may refuse payment therefore, and you are further advised not to accept said bonds for this reason.

Respectfully,  
C. C. CRABBE,  
*Attorney General.*

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3294.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND CLAGUE & STROHL, BOWLING GREEN, OHIO, COVERING CONSTRUCTION AND COMPLETION OF COMBINED GENERAL CONTRACT, ELECTRICAL WORK AND PIPE HANGERS FOR TUNNEL EXTENSION FROM WAYNE STREET TO NORTH CORRIDOR, BOWLING GREEN STATE NORMAL SCHOOL, BOWLING GREEN, OHIO, AT EXPENDITURE OF \$4,207.88. SURETY BOND EXECUTED BY THE OHIO CASUALTY INSURANCE COMPANY.

COLUMBUS, OHIO, April 24, 1926.

HON. G. F. SCHLESINGER, *Director of Highways and Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by the Department of Highways and Public Works, for and on behalf of the Board of Trustees of Bowling Green State Normal School, and Clague & Strohl, of Bowling Green, Ohio. This contract covers the construction and completion of combined general contract, electrical work and pipe hangers, for tunnel extension from Wayne Street to north corridor, Bowling Green State Normal School, Bowling Green, Ohio, and calls for an expenditure of \$4,207.88.

You have submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract. There has further been submitted a contract bond upon which The Ohio Casualty Insurance Company appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law and the contract duly awarded. Also it appears that the laws relating to the status of surety companies and the workmen's compensation have been complied with.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,  
C. C. CRABBE,  
*Attorney General.*