

1202.

DISAPPROVAL, BONDS OF BEACHWOOD VILLAGE SCHOOL DISTRICT,
CUYAHOGA COUNTY, OHIO—\$150,000.00.

COLUMBUS, OHIO, October 27, 1927.

Re: Bonds of Beachwood Village School District, Cuyahoga County, Ohio, \$150,000.00.

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

GENTLEMEN:—An examination of the transcript pertaining to the above bond issue reveals that said bonds are to be issued pursuant to a favorable vote of the electors of the school district at the November 2, 1926, general election. The transcript contains a proof of publication to the effect that publication of the notice of the election was had in the Cleveland Plain Dealer in its issues of September 22, and 29 and October 6 and 13, 1926.

Section 5649-9b, General Code, which was in effect at the time the question of issuing the above bonds was submitted to the electors, provides, in part, as follows:

“* * * Notice of the election shall be published in one or more newspapers *printed and of general circulation in the subdivision* once a week for four consecutive weeks prior thereto, stating the amount of the proposed bond issue, the purpose for which it is to be issued, and the maximum number of years during which such bonds shall run, and the estimated average additional rate outside of the limitations of Section 5649-5b, as certified by the county auditor. If no newspaper of general circulation is *printed in said subdivision*, the notice shall be posted in two conspicuous places therein at least thirty days prior to the election and published once a week, for four consecutive weeks, in one or more newspapers of general circulation in the district.” (Italics the writer’s.)

I think it may be assumed that the Cleveland Plain Dealer is not printed and of general circulation in Beachwood Village School District and that therefore it was necessary to post a notice of the election in two conspicuous places within the district at least thirty days prior to the election in addition to the publication had in said Cleveland Plain Dealer. I am now informed that the notice required in Section 5649-9b, *supra*, was not in fact posted, but that on September 26, 1926, about four hundred copies of a pamphlet, containing a description of the plans and specifications of the proposed school building, were circulated in said district.

In my opinion the circulation of four hundred copies of the pamphlet above referred to was not a sufficient compliance with the requirements of Section 5649-9b, General Code, *supra*, to validate the election. The terms of the statute are clear to the effect that where no newspaper is *printed and of general circulation in the district*, a notice of the election must be posted in two conspicuous places within the district and publication for four weeks must be had in a newspaper of general circulation in the district. The purpose of such posting and publication is to give notice to the electors of the district that the question of issuing bonds is to be submitted at an election, and the means of giving such notice having been specifically set out in the statute the employment of any other means, however effective, raises sufficient doubt as to the legality of such election as to compel me, in the absence of a determination by a proper court to the contrary, to advise you not to purchase the above issue of bonds.

Respectfully,

EDWARD C. TURNER,
Attorney General