

886.

APPROVAL—BONDS OF TOLEDO CITY SCHOOL DISTRICT,  
LUCAS COUNTY, OHIO, \$8,000.00.

COLUMBUS, OHIO, July 19, 1937.

*The Industrial Commission of Ohio, Columbus, Ohio.*

GENTLEMEN:

RE: Bonds of Toledo City School Dist., Lucas County,  
Ohio, \$8,000.00.

The above purchase of bonds appears to be part of an issue of bonds of the above school district dated June 1, 1927. The transcript relative to this issue was approved by this office in an opinion rendered to the Teachers Retirement System under date of November 20, 1933, being Opinion No. 1886.

It is accordingly my opinion that these bonds constitute a valid and legal obligation of said school district.

Respectfully,

HERBERT S. DUFFY,

*Attorney General.*

887.

SERVICE OF NOTICE—METHODS OF SERVICE—AGENCY OF  
REGISTERED MAIL.

## SYLLABUS:

*The service of written notice as required under the provisions of Section 7150, General Code, is not confined exclusively to the method provided for in Section 7151, General Code, but may also be made through the agency of registered mail with a properly executed return receipt.*

COLUMBUS, OHIO, July 20, 1937.

HON. G. W. MARRIOTT, *Prosecuting Attorney, Mansfield, Ohio.*

DEAR SIR: I have your letter of recent date in which you request my opinion on the following:

“In Monroe Township of this county a formal complaint has been lodged with the trustees against a land owner who has permitted his lands to grow up with noxious weeds. There is no owner, lessee, agent, or tenant having charge of such premises within this county of Richland. The owner resides in Columbus, Franklin County, Ohio, and no tenant is upon said place.

After receiving the complaint, the trustees ordered the clerk to serve written notice under Section 7150 G. C. by registered letter with return receipt, directed to the owner in Columbus, as aforesaid. I am informed the clerk has the return receipt of the owner.

However, Section 7151 provides for the service of notice by saying that a constable or marshal of a city or village or his deputies may make service of the notice, etc. The opinion of the Attorney General, being 1935 O. A. G. No. 4646, covers the subject of weeds but does not go into the question of service under the two sections above set forth.

QUERY: Is a registered letter with return receipt a sufficient notice to an owner of land under Section 7150, General Code.”

Section 7150, General Code, reads as follows :

“Upon written information that Canada or Russia thistles, wild parsnip, wild carrot, oxeye daisy or wild mustard are growing on lands in a township, and are about to spread or mature seeds, the trustees of the township shall cause a written notice to be served upon the owner, lessee, agent or tenant having charge of such land notifying him that said noxious weeds are growing on such lands and that they must be cut and destroyed within five days after the service of such notice.”

The foregoing statute simply provides that the township trustees shall cause a written notice to be served, and in itself this section fails to provide for a method of service and does not specify by what agency the notice is to be served. However, Section 7151, General Code, does provide that a constable or a marshal of a city or village may make the service provided for in Section 7150, General Code, and the fees therefor are the same as in civil cases before a magistrate.

Section 7151, General Code, *supra*, is merely optional or permissive and does not prescribe the exclusive method of serving notice on the owner, lessee, agent or tenant of lands on which noxious weeds are

growing. Authority for this construction of the foregoing statute is found in 37 O. J., 327 as follows:

“The use of the word ‘may’ is generally construed to make the provision in which it is contained optional or permissive. At least this is so where there is nothing in the connection of the language or in the sense or policy of the provision to require an unusual interpretation.”

See *Wright, et al. vs. Erie Railroad Company*, 14 O. App., 217, 221 and *Bond vs. Ohio Farmers Insurance Company*, 12 O. App., 39 cited in support of the above encyclopedic authority. Inasmuch as Section 7151, General Code, provides only one method of service and the powers of a constable or a marshal of a city or village are restricted to the confines of the county and municipal corporation respectively, (See Sections 3334 and 4385, General Code) the provisions of this section should not be rendered inoperative simply because a landowner resides in a foreign county. I feel that the legislature impliedly intended that the township trustees should use, pursuant to the authority of Section 7150, General Code, means or agencies that would reasonably assure an addressee actually receiving the written notice.

Registered mail with a properly signed return receipt has always been recognized as an efficient and practical method of serving a written notice and offers a fair degree of assurance that the addressee will actually be notified. Personal service by written notice within the contemplation of Section 7150, General Code, is ably defined in 46 C. J. 558, as follows:

“*Personal service* is, properly, service directly upon the person to be served. It has been held that, where a statute provides for notice, but does not prescribe the manner of service, it is sufficient if actual notice to the person to be effected is given; and that, where a statute directs that notice in writing shall be given but prescribes no method of service, it is ordinarily sufficient to show that the party to be notified actually received written notice, and that the method is unimportant.” (Italics the writer’s.)

In the case you present the landowner residing in a foreign county was actually apprised of the order of the township trustees as evidenced by the signed return receipt. Notification of that addressee by registered mail accomplished the real purpose of Section 7150, General Code, that

is, this notification actually brought to his personal attention the order of the township trustees.

The efficacy of service by registered mail has been recognized by the legislature in the enactment of Section 11297-1, General Code. This statute provides that the judges of the Common Pleas, Probate and Municipal Courts may, by rule, authorize the service of writs or processes by registered mail. Section 6308-2, General Code, also provides for a notice by registered mail to non-resident motorists by mailing an attested copy of the process served on the Secretary of State. In both of these cases notice by registered mail serves the purpose of informing a defendant that a civil suit has been commenced against him, which seems to be more important and of higher dignity than merely to order a person to cut noxious weeds growing on his lands. Consequently if registered mail is recognized as an efficient agency in serving notice in civil actions, a fortiori this method should certainly prove adequate in the case under consideration.

In view of the foregoing reasons I am of the opinion that notification by registered letter with a return receipt is sufficient within the purview of Section 7150 of the General Code.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

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888.

REAL ESTATE OUTSIDE OHIO—SALE WITH STATE—COMPLIANCE WITH SECTION 8624-47, GENERAL CODE—REPEATED SALES—OHIO SECURITIES ACT.

**SYLLABUS:**

1. *An individual owning real estate located outside of Ohio may not sell such real estate within this state without complying with the provisions of Section 8624-47, General Code, where such sales are to be made by such individual himself and where sales will be in the course of repeated and successive transactions.*

2. *A corporation, through its officers and regular salaried employes, is limited in the sale in this state of real estate located out of this state to one single transaction and may not sell such real estate by way of*