

OPINION
44-109

February 21, 1944 (OPINION)

TAXATION

RE: Farm Property situated in cities and villages

You submit the following question upon which you desire an opinion from this office.

There is a certain tract of land in the northeast part of Grafton and within the city limits, not platted but adjoining platted land, comprising 9.40 acres. In one corner of the tract are located a dwelling and some other buildings used as farm structures. For forty years or more, the tract has been owned by one family and operated as a vegetable truck farm, and has been the means of supporting a large family which operated as a vegetable truck farm, and has been the means of supporting a large family which occupied said buildings and farmed the tract therefrom. The question arises whether under chapter 230 of the Session Laws of 1929, the farm structures and improvements located on the described tract within the city limits are exempt from taxation.

This office has held on several occasions that where a parcel of land is occupied and used as a farm for agricultural purposes and it has buildings and improvements thereon, such buildings and improvements are exempt from taxation under said chapter 230, notwithstanding the fact that said tract or parcel of land is within an incorporated city or village. In our opinion the test is not whether such land is within an incorporated municipality, but whether it is used mainly for agricultural purposes, so as to bring it within the purview of said chapter 230.

From the statement of facts in your letter, it clearly appears that the tract of land in question is used solely for agricultural purposes and it would naturally follow that the buildings and improvements thereon are exempt from taxation.

In our opinion, it is immaterial whether the tract consists partly of platted portions and partly of unplatted portions within the village limits.

If such tract is used solely or mainly for agricultural purposes as set forth in your letter, the owner thereof would have the same right to rent buildings thereon to third persons as he would have under ordinary circumstances, since, as we have pointed out, the test is whether or not the land in question is used and operated for agricultural purposes.

ALVIN C. STRUTZ
Attorney General