

OPINION
56-198

December 18, 1956 (OPINION)

TAXATION

RE: Exemption - Farm Structures

This letter is in reply to your letter of June 30, 1956, and subsequent correspondence, in which you ask whether a farm structure is exempt from taxation under section 57-0208(15) of the North Dakota Revised Code of 1943 when the same is located on land which lies within the city limits but not on regularly platted land. Section 57-0208(15) reads as follows:

All farm structures, and improvements located on agricultural lands. This subsection shall be construed to exempt farm buildings and improvements only, and shall not be construed to exempt from taxation industrial plants, or structures of any kind not used or intended for use as a part of a farm plant, or as a farm residence;"

In the case of Eisenzimmer v. Bell, 32 N.W.2d., 891 (N.D. 1948), our court held that buildings located on lots within regularly platted portions of a city, though used in connection with farming operations, were not exempt from taxation as farm structures located on "agricultural lands." As that case points out, before a building is exempt from taxation under section 57-0208(15) it must be both a farm structure and also be located on agricultural land. We believe that whether lands are "agricultural" or "urban" depends on the character of the land in question. Thus, in the Bell case supra, our court said "The term 'agricultural lands', as use in this act, is descriptive of the land itself as a class, and is used merely to distinguish rural from urban or other properties. The first test is as to the character of the lands and secondly, the nature of the structures* * *." (Emphasis supplied). The courts of other jurisdictions seem to be substantially in accord with this definition. (See cases cited in "Words and Phrases" under "Urban" and "Urban Homestead.") We understand the Bell case, supra, to hold that lands lying on platted lots within the territorial limits of a city are "urban" in nature regardless of the use to which the buildings or lands are put. We do not believe that the court intended to change the general rule for determining whether lands are "agricultural" or "urban" in character when they do not lie within the platted portions of a city. This is apparent from the court's own language as quoted above. It merely held that lands lying on platted portions of city lots are "urban" in character.

From the facts stated in your correspondence it would seem that the land in question is "agricultural" rather than "urban" in character and that the farm structures located thereon are thus exempt from taxation. This is true regardless of the fact that the land may lie within the territorial limits of a city.

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