

OFFICE OF THE ATTORNEY GENERAL



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File # 162

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STATE OF ALABAMA
MAY 16 1979

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Honorable Claud E. McCoy
Mayor
City of Lanett
Post Office Box 290
Lanett, Alabama, 36863

Municipalities - Annexation -
City of Lanett

Existence of railroad right
of way does not prevent
two pieces of land from
being "contiguous" and
city may utilize method
of annexation by mutual
consent as set forth in
Code of Alabama 1975,
§§ 11-42-20 through 11-42-33.

Dear Mayor McCoy:

The Office of the Attorney General has received your
opinion request. Your request presents the following
question:

Does the existence of a railroad
right of way along the boundary of
the City Limits prevent property
bounding the opposite side of
the right of way from being
annexed into the City Limits
by mutual consent?

Your question is to be answered in the negative.

Honorable Claud E. McCoy
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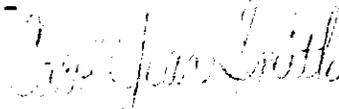
Code of Alabama 1975, §§ 11-42-20 through 11-42-23 provide only for annexation of property which is "contiguous" to the corporate limits of any incorporated municipality. However, the Supreme Court of Alabama has held that neither a river nor the county line nor a public highway is the type of physical separation which would prevent two pieces of land from being "contiguous" within the meaning of Code of Alabama, §11-42-21. City of Leeds v. Town of Moody, 294 Ala. 496, 319 So.2d 242 (1975). It would logically follow that a railroad right of way would not prevent two pieces of land from being "contiguous".

It is, therefore, the opinion of the office that the existence of a railroad right of way along the corporate limits of the City of Lanett would not prevent the City from annexing property bounding the opposite side of the right of way by mutual consent under Sections 11-42-20 through 11-42-23, supra.

I do hope that this response fully answers your question. If, however, we may be of further assistance, please do not hesitate to call on us.

Very truly yours,

CHARLES A. GRADDICK
ATTORNEY GENERAL
BY-



CAROL JEAN SMITH
ASSISTANT ATTORNEY GENERAL

CJS/sa