

374.

APPROVAL, BONDS OF CITY OF CLEVELAND, CUYAHOGA  
COUNTY, OHIO, \$10,000.00

COLUMBUS, OHIO, April 1, 1937.

*Industrial Commission of Ohio, Columbus, Ohio.*

GENTLEMEN :

RE: Bonds of City of Cleveland, Cuyahoga  
County, Ohio, \$10,000.00.

I have examined the transcript of proceedings relative to the above bonds purchased by you. These bonds comprise part of an issue of park bonds in the aggregate amount of \$500,000, dated December 1, 1926, bearing interest at the rate of 4½% per annum.

From this examination, in the light of the law under authority of which these bonds have been authorized, I am of the opinion that bonds issued under these proceedings constitute a valid and legal obligation of said city.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

375.

APPROVAL, ABSTRACT OF TITLE, WARRANTY DEED,  
ETC., OF LAND IN ERIE TOWNSHIP, OTTAWA  
COUNTY, OHIO.

COLUMBUS, OHIO, April 1, 1937.

HON. EMIL F. MARX, *Adjutant General, Columbus, Ohio.*

DEAR SIR: You have recently submitted for my examination and approval an abstract of title, certain deeds, contract encumbrance Record No. 197 and other files relating to the proposed purchase of a tract of land in Erie Township, Ottawa County, Ohio, which is now owned of record by William B. Gordon and Virgil M. Gordon, his son, as tenants in common, which tract of land is more particularly described as being the south thirty acres of land off the west half of the southeast quarter of Section No. 28 in Township 7 North, Range

No. 16 East, together with the privileges and appurtenances to the same belonging.

Upon examination of the abstract of title which has been submitted to me, I find that said William B. Gordon and Virgil M. Gordon, as tenants in common, have a good merchantable fee simple title and to the above described tract of land and that they own and hold the same free and clear of all liens and other encumbrances except the following which are here noted as exceptions to their title.

1. The tract of land above described, the title to which is here in question, was conveyed to William B. Gordon and Dorathea Gordon, his wife, as tenants in common, by the heirs at law of one Amelia M. Bell, by deed under date of January 7, 1911. It appears inferentially from the abstract of title that Dorathea Gordon is dead and that her undivided interest in this property, passed by descent to her son, Virgil M. Gordon, subject to the inchoate dower interest of her husband, William B. Gordon, the owner and holder of the other undivided one-half interest of the property. Although the date of her death does not appear from the abstract of title, there being nothing therein concerning the administration of her estate, I am informed that Dorathea Gordon died some time within the last five or six years. In this situation, it is a matter of concern for you to know whether the succession or successions to the interest of Dorathea Gordon on her death were subject to the payment of inheritance taxes and as to whether any determination as to liability for inheritance taxes has been made by the court. The abstract does not show what, if any, other property was owned by Dorathea Gordon at the time of her death and as to whether the amount and value of such property were such as to make the successions thereto subject to the payment of inheritance taxes under the laws of this state. This matter should be determined by you or by your representatives in charge of the acquisition of this property before the transaction for the purchase of the property is closed by the issuance of voucher and warrant covering the purchase price of the same. Moreover, in this connection, there is nothing in the abstract of title to show that the debts of the estate of Dorathea Gordon, if any, have been paid. This is likewise a matter that should be satisfactorily determined before this property is purchased.

2. On March 27, 1931, William B. Gordon executed a deed to the State of Ohio in and by which he granted to the state an easement for highway purposes in and over a strip of land not to exceed eighty feet in width, included in and as a part of the land above described, which strip of land was stated in the deed to contain .51 acres, more or less, "of which the present road occupies .14 acres." There is nothing in the abstract to show what, if any, improvement was made by

the State Highway Department pursuant to this easement. This matter is doubtless familiar to you and to your representatives in charge and is here noted simply for the reason that in legal contemplation the same is an encumbrance upon the property to be conveyed to the State of Ohio.

3. Under date of July 12, 1934, William B. Gordon executed to the State of Ohio a deed in and by which he conveyed to the State of Ohio an easement for highway purposes in and over a strip of land described in said deed as follows:

Beginning at a point in the property line between Everett L. Wadsworth and Wm. B. Gordon, same being Stations 47 and 30 in the center line of survey made by the Department of Highways, thence north 50 degrees 06 feet w. along said center line of survey 28.9 feet to a point, said point being the intersection of said section line of survey with the southerly right of way line projected of S.H. No. 438; thence south 68 degrees 23' 30" E. along said projected southerly right of way line of S.H. No. 438 a distance of 64.32 feet to a point in south line of Section 28, Town 7 N. Range 16 E. said points being at right angles to and 40 feet from the center line of S.H. No. 438, Sec. "F", thence westerly in the said south line of said Section 28, a distance of 57.46 feet to the place of beginning as shown by plans on file in the office of the Department of Highways, Columbus, Ohio.

I am not advised as to what, if any, improvement was made by the State Highway Department in and over the above described parcel of land pursuant to this easement. This is doubtless a matter that is within your knowledge and that of your representatives in charge of the acquisition of this and other property in connection with the Camp Perry Extension Project.

4. On April 2, 1926, William B. Gordon executed a deed to the Ohio Public Service Company in and by which he granted to said company the right to erect and operate a line or lines for the transmission of electric power, including the necessary poles, wires, cables and other fixtures and appliances over and along that part of this land which was contiguous to the Port Clinton-Bono Highway No. 23; said deed providing that said line or lines and the poles, cables, etc., were to be erected "only upon the 8 foot strip immediately adjoining the highway." I assume that this electric power line has been constructed pursuant to this easement and that you are familiar with the same. And as with respect to the other matters above noted,

this easement is mentioned for the reason that as a matter of law it is an encumbrance upon the property.

5. As above noted, Virgil M. Gordon, the son of William B. Gordon and of Dorathea Gordon, deceased, is the owner of an undivided one-half interest in this property subject to the inchoate dower interest of William B. Gordon as the husband relict of Dorathea Gordon. It appears from the abstract that under date of January 29, 1937, William B. Gordon was appointed guardian of Virgil M. Gordon and that thereafter pursuant to proceedings therefore in the Probate Court of Ottawa County, Ohio, he, as guardian of Virgil M. Gordon, a minor nineteen years of age, was authorized by an order of the Probate Court of Ottawa County, Ohio, to sell his ward's interest in this property to the State of Ohio. And it further appears in this connection that such guardian's deed has been prepared and has been tendered to the state. The guardian's deed here referred to recites that the sale of his ward's interest in this property to the State of Ohio pursuant to the order of sale theretofore issued to him by said court was duly confirmed by the court on the 24th of March, 1937, and that pursuant to such order of confirmation the guardian was ordered and directed to execute this deed. However, there is nothing in the abstract to show that the sale of the interest of Virgil M. Gordon was confirmed by the court or that the execution of the deed here in question was ordered and directed by said court. In this connection, it is noted that the closing statement in the abstract with respect to this matter is that "Order of sale issued same day and return filed March 24, 1937, showing sale of said premises to the State of Ohio, for the sum of \$970.00, being the appraised value thereof." Through your representatives in charge of the acquisition of this property you should determine whether or not the sale of the interest of the ward above named was confirmed by the court before the deed conveying such interest to the State of Ohio was executed.

6. It is stated in the abstract of title that the taxes and assessments "for the last half of 1936 in the sum of \$10.80 are a lien upon the property." Inasmuch as this statement appears in the abstract under date of October 15, 1936, I am inclined to the view that the abstracter may have been referring to the taxes and assessments for the last half of the year 1935 and that in addition thereto all of the taxes for the year 1936 were a lien upon this property. Although the abstracter in this statement refers to both taxes and assessments, I assume from the amount stated in connection therewith that the only lien against the property was the lien for taxes as distinguished from assessments. This is a matter which should be checked by your representatives in charge of the acquisition of this property to

the end that all taxes and likewise all assessments, if any, which stand as a lien against this property, are paid.

William B. Gordon, who, as above stated, owns and holds an undivided one-half interest in the above described property, has executed and has tendered to the state a warranty deed conveying this property to the state. This deed has been property executed and acknowledged and the form of the same is such that it is legally sufficient to convey to the state of Ohio all of the interest of William B. Gordon in and to this property with a covenant of warranty that the same is free and clear of all encumbrance whatsoever. There is likewise tendered to this state a deed executed by William B. Gordon, as guardian of Virgil M. Gordon, conveying to the state of Ohio all of the right, title and interest of Virgil M. Gordon in and to this property. This deed has likewise been property executed and acknowledged if it may be assumed that the sale of Virgil M. Gordon's interest in this property was confirmed by the court and that this deed was executed pursuant to such order of confirmation. Further, the form of this deed is such that the same is legally sufficient to convey Virgil M. Gordon's interest in this property to the State of Ohio. The warranty deed tendered by William B. Gordon, individually, is approved as is likewise the deed executed by him as guardian of Virgil M. Gordon, subject only to the observation above noted with respect to the confirmation of his ward's interest in this property.

Contract encumbrance Record No. 197 has been submitted to me as a part of the files relating to the purchase of this property. This contract encumbrance record has been executed in such manner as to comply with the provisions of section 2288-2, General Code, in this that the same shows that there is a sufficient balance in the appropriation account to the credit of your department for the purchase of lands at Camp Perry to pay to William B. Gordon the sum of \$2,000.00 which is therein stated as the amount of the encumbrance.

As I have previously observed in connection with contract encumbrance records covering the purchase of other lands forming a part of the proposed Camp Perry Extension Project, you should procure the signature of the Director of Public Works to this contract encumbrance record for the purpose of thereby securing his approval to the purchase of this property. By doing this you will save any question with respect to your authority to purchase this property without his approval which might arise by reason of the provisions of section 154-40, General Code, relating to the power and duties of the Director of Public Works in connection with the acquisition of property for the use of the state and of any of its departments.

It appears further by recital contained in this contract encumbrance record, as well as by a copy of a certificate of the Controlling Board, that said Board has approved the purchase of this property and has released from the appropriation account the money necessary to pay the purchase price and of other tracts of land acquired or to be acquired in connection with the Camp Perry Extension Project.

Subject only to the exceptions above noted, I am approving the title of William B. Gordon and Virgil M. Gordon in and to the above described tract of land and I am herewith returning the abstract of title, the deeds above referred to, contract encumbrance Record No. 197, and other files to you for your further action relating to the purchase and acquisition of this property.

Respectfully,

HERBERT S. DUFFY,

*Attorney General.*

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376.

APPROVAL—BONDS OF NORWALK CITY SCHOOL DISTRICT,  
HURON COUNTY, OHIO, \$8,400.00 (Limited).

COLUMBUS, OHIO, April 1, 1937.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*  
GENTLEMEN:

RE: Bonds of Norwalk City School Dist., Huron  
County, Ohio, \$8,400.00 (Limited).

I have examined the transcript of proceedings relative to the above bonds purchased by you. These bonds comprise all of an issue of deficiency bonds dated March 1, 1937, bearing interest at the rate of 4% per annum.

From this examination, in the light of the law under authority of which these bonds have been authorized, I am of the opinion that bonds issued under these proceedings constitute a valid and legal obligation of said school district.

Respectfully,

HERBERT S. DUFFY,

*Attorney General.*