

either of them. In city school districts, the city solicitor shall be the legal adviser and attorney for the board of education thereof, and shall perform the same services for such board as herein required of the prosecuting attorney for other boards of education of the county."

"Sec. 4762. The duties prescribed by the preceding section shall devolve upon any official serving in a capacity similar to that of prosecuting attorney or city solicitor for the territory wherein a school district is situated, regardless of his official designation. No prosecuting attorney, city solicitor or other official acting in a similar capacity shall be a member of the board of education. No compensation in addition to such officer's regular salary shall be allowed for such services."

Section 4761, General Code, makes it the duty of a city solicitor to appear in court actions for the city board of education. The last sentence of section 4762, General Code, states that for the duty under section 4761, the city solicitor shall receive no additional compensation, other than his "regular salary." Obviously, the legislature has shown that the duty to defend and prosecute court actions is to be taken into consideration by the city council in advance in fixing the solicitor's stated salary and compensation for his term of office.

As stated in the first portion of this opinion, there is nothing in the General Code to regulate just how the salary and compensation shall be fixed by council. Council may make a flat salary to cover all the duties of the city solicitor, or it may provide a regular salary plus a flat amount for each case in common pleas court and higher courts, or a definite amount per hour or per diem for services rendered in such cases. In other words, the yardstick for compensation must be fixed in advance of his term of office.

In view of the foregoing, and in specific answer to your questions, I am of the opinion that, first, the ordinance under consideration is not legally drawn, and, second, the city solicitor may not legally receive extra amounts, which he determines himself, for prosecuting cases for or against the city in common pleas and higher courts.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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3825.

APPROVAL, TRANSCRIPTS OF PROCEEDINGS RELATING TO REDUCTION OF RENT ON CANAL LAND LEASES—CITY OF AKRON, CITY VIEW STORAGE COMPANY, E. D. BESST, MARY C. COLE, EMMA E. DOLL, RUTH DOLL.

COLUMBUS, OHIO, January 16, 1935.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination and approval a number of transcripts of your proceedings upon applications filed with you by the owners of canal land leases, for a reduction in the current and/or delinquent rentals provided for and accrued under such leases.

The applications here in question, which are covered by the transcripts above

referred to, and here designated with respect to the names of the respective lessees, the lease numbers and the reductions granted, are as follows:

(1) City of Akron, Ohio and Erie Canal Lease No. 271, reduction on delinquent rental \$394.66 to \$192.33, reduction on current rental \$789.32 to \$394.66;

(2) City View Storage Company, Ohio and Erie Canal Lease No. 479, reduction on current rentals from \$800 to \$480;

(3) City of Akron, Ohio and Erie Canal Lease No. 573, reduction on delinquent rental \$37.50 to \$18.75, reduction on current rental \$75 to \$37.50;

(4) City of Akron, Ohio and Erie Canal Lease No. 3, reduction delinquent rental \$120 to \$60, reduction current rental \$240 to \$120;

(5) City of Akron, Ohio and Erie Canal Lease No. 2, reduction delinquent rentals \$577.50 to \$346.50, reduction current rental \$1155 to \$693;

(6) City of Akron, Ohio and Erie Canal Lease No. 1, reduction delinquent rental \$3 to \$1.50, reduction current rental \$6 to \$3;

(7) E. D. Besst, Ohio and Erie Canal Lease No. 287, reduction current rental \$24 to \$18;

(8) Mary C. Cole, Ohio and Erie Canal Lease No. 510, reduction current rental \$60 to \$40;

(9) Emma E. Doll, Ohio and Erie Canal Lease No. 480, reduction current rental \$7.50 to \$6;

(10) Ruth Doll, et al., Ohio and Erie Canal Lease No. 478, reduction current rental \$7.50 to \$6.

The applications for reductions of current and/or delinquent rentals above noted and upon which by your findings you have made the reductions hereinabove indicated, were filed with you under the authority of House Bill No. 467, enacted by the 90th General Assembly, 115 O. L., 512. Upon examination of the transcript submitted, I find that these applications are substantially in the form required by this act, and that they were such as properly invoked your jurisdiction to act either by granting or by rejecting the applications. In each of the instances above noted, you have granted a reduction in the amount of the current or delinquent rentals provided for or accruing under the lease. Upon examination of your proceedings, I have discovered nothing which in point of law required me to disapprove your proceedings in granting a reduction in the amount of such rentals. I am therefore approving your proceedings with respect to these several reductions, as is evidenced by my approval endorsed upon the several transcripts and upon the copies thereof, all of which are herewith returned.

With the transcripts above referred to, you have submitted another covering your proceedings on an application by one Cade Schulenberg, who is now the owner and holder of Miami and Erie Canal Lease No. 64, for a cancellation of such lease. This application, like the others, is filed with you under the authority of House Bill No. 467, 115 O. L., 512, above noted. It appears from the application that this lease was applied for and granted to the lessee above named for the purpose of providing him a right of way for a side track to the Western Ohio Railway Company freight house at New Bremen, Ohio; and that since the Western Ohio Railway Company discontinued operation the lessee has no further use for the lease and has no income from the use of the side track enabling him to keep up the payments on the annual rental provided for in the lease. The reasons here assigned for this cancellation are obviously economic in their nature and bring the application within the pertinent provisions of House Bill No. 467 authorizing you as Superintendent of Public Works, acting together with the Governor and Attorney General, to cancel this lease. By your finding, you have directed the cancellation of the lease conditioned upon the payment by the lessee of delinquent rental in the amount of \$12 covering the period from May 1, 1934, to November 1,

1934. No reason is seen why your finding should not be approved by me. I am accordingly approving this cancellation, as is evidenced by my approval endorsed upon the transcript of your proceedings in this matter and upon the copies thereof, all of which are herewith returned.

Respectfully,  
 JOHN W. BRICKER,  
*Attorney General.*

3826.

APPROVAL, WARRANTY DEED, ETC. TO LAND IN VERMILLION TOWNSHIP, ERIE COUNTY, OHIO-SPANISH WAR VETERAN ASSOCIATION.

COLUMBUS, OHIO, January 16, 1935.

HON. T. S. BRINDLE, *Director, Department of Public Works, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of your communication of even date herewith, with which you submit for my examination and approval a Warranty Deed and other files relating to the acquisition by you as a part of the public works of the State, of a parcel of land, now owned of record by The Spanish War Veterans Association, in Vermillion Township, Erie County, Ohio; said parcel of land being a part of Lot No. 33 in the Third Section of said township, situated north of the Cleveland-Sandusky Road and is more fully described as follows:

Beginning at a point in the center line of the Cleveland-Sandusky Road (I. C. H. No. 3) said point being 137 feet westerly from the intersection of said Cleveland-Sandusky Road and the east line of Lot No. 33; thence westerly along the center line extended of the said Cleveland-Sandusky Road 263 feet to a point; thence in a northwesterly direction along a line at right angles to the said center line extended of the Cleveland-Sandusky Road 243 feet to a point in the waters of Lake Erie; thence in an easterly direction and parallel to the said center line of the Cleveland-Sandusky Road to a point in the waters of Lake Erie; thence southerly along a line parallel to the east line of Lot No. 33 to the place of beginning, excepting the south 81.6 feet as measured at right angles from the center line of the Cleveland-Sandusky Road.

Upon examination of the Warranty Deed in and by which The Spanish War Veteran Association is conveying the above described property to the State of Ohio, and of the other files submitted therewith, it appears that you are acquiring this property in the name of the State of Ohio and on its behalf, as a part of the public works of the State, and for use in the construction of shoreline improvements along the shore of Lake Erie at this point for the purpose of protecting this and other lands and property of the State from the destructive action of the waters of Lake Erie.

Upon examination of the Warranty Deed tendered by The Spanish War Veteran Association, I find that the same has been properly executed by said Association, by the hands of its president and secretary, pursuant to the authority of a resolution of the Board of Trustees of said association, adopted on the 14th day of December, 1934 and that said deed has been properly acknowledged by said association and by its said officers in the manner required by law.