

2320.

APPROVAL—BONDS, LAKEWOOD CITY SCHOOL DISTRICT, CUYAHOGA COUNTY, OHIO, \$10,000.00, PART OF TWO ISSUES DATED OCTOBER 1, 1924.

COLUMBUS, OHIO, April 15, 1938.

*The Industrial Commission of Ohio, Columbus, Ohio.*

GENTLEMEN:

RE: Bonds of Lakewood City School District,  
Cuyahoga County, Ohio, \$10,000.00.

I have examined the transcripts relative of the above bonds purchased by you. These bonds comprise parts of two issues of school building and improvement bonds each in the aggregate amount of \$100,000, dated October 1, 1924, bearing interest at the rate of  $4\frac{1}{2}\%$  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 valid and legal obligations of said school district.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

2321.

APPROVAL—GRANTS OF EASEMENT, STATE OF OHIO, THROUGH CONSERVATION COMMISSIONER, GRANTORS IN FAYETTE, CLARK, SCIOTO, GEAUGA, CLINTON, PERRY AND GALLIA COUNTIES, OHIO, PROPERTY NUMBERED AND DESIGNATED, FOR PUBLIC FISHING GROUNDS, AND TO IMPROVE THE WATERS OR WATER COURSES PASSING THROUGH AND OVER SAID LANDS.

COLUMBUS, OHIO, April 18, 1938.

HON. L. WOODDELL, *Conservation Commissioner, Columbus, Ohio.*

DEAR SIR: You have submitted for my examination and approval certain grants of easement, executed to the State of Ohio, by several

property owners in Fayette, Clark, Scioto, Geauga, Clinton, Perry and Gallia Counties, conveying to the State of Ohio, for the purposes therein stated, certain tracts of land in said counties.

The grants of easement here in question, designated with respect to the number of the instrument, the location of the land by township and county, and the name of the grantor, are as follows:

Number	Township	County	Name
672	Union	Fayette	Herbert M. Clickner
1412	Bethel	Clark	T. H. Cory
1413	Bethel	Clark	Frank Cable
1414	Bethel	Clark	William A. Higgins
1415	Bethel	Clark	Leroy C. Leffel
1416	Bethel	Clark	William Rinehart
1443	Madison	Scioto	Nathaniel & Harriett Lyons
1468	Montville	Gauga	Milton Leggett
1474	Union	Clinton	John Q. & Mae Black
1475	Union	Clinton	E. C. & Mary D. Mannon
1476	Union	Clinton	N. R. & Nellie Tucker
1477	Union	Clinton	Geo. Thatcher
1478	Union	Clinton	Fred D. Mitchell
1479	Union	Clinton	Fred Sabin
1481	Union	Clinton	Frank A. & Virginia Peele
1482	Union	Clinton	E. J. Hiatt
1483	Union	Clinton	B. M. Hiatt
1484	Union	Clinton	John H. Harlan
1485	Union	Clinton	E. J. Starbuck
1487	Union	Clinton	Vesta M. Probasco
1488	Union	Clinton	Edgar A. & Elanor C. Hendrickson
1489	Union	Clinton	Marion R. Starbuck
1490	Reading	Perry	Herbert L. Love
1491	Reading	Perry	Cyrus W. Barnes
1492	Reading	Perry	Walter C. Larue
1493	Reading	Perry	Frank M. Bowman
1494	Reading	Perry	William Alonzo Miller
1495	Madison	Perry	Samuel O. Bellville
1496	Madison	Perry	Annie Henderson
1497	Springfield	Gallia	J. A. Reynolds
1498	Springfield	Gallia	R. C. Dabney
1499	Bethel	Clark	Julia M. Small
1450	Bethel	Clark	Harvey M. Grisso

By the above grants there are conveyed to the State of Ohio, certain lands described therein, for the sole purpose of using said lands for public fishing grounds, and to that end to improve the waters or water courses passing through and over said lands.

Upon examination of the above instruments, I find that the same have been executed and acknowledged by the respective grantors in the manner provided by law and am accordingly approving the same as to legality and form, as is evidenced by my approval endorsed thereon, all of which are herewith returned.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

---

2322.

TAXES AND TAXATION—USE TAX—SALES TAX—CIGARETTES SOLD BY FOREIGN STATE VENDORS TO OHIO CONSUMERS—INTERSTATE COMMERCE—ENFORCEMENT LAW PROVISIONS AVAILABLE.

*SYLLABUS:*

1. *The exemption accorded to cigarettes under Section 5546-26(1), General Code (Use and Storage Tax), is not effective when the related exemption under Section 5546-2(4), General Code (Retail Sales Tax), is not operative and the taxing provisions of the Sales Tax itself are not applicable thereto.*

2. *The application of the Ohio Use Tax to cigarettes sold by out-of-state vendors to consumers in Ohio is not inhibited by the Commerce Clause of the Federal Constitution so long as the rate levied thereby on such out-of-state cigarettes is no higher than the rate levied on the sale of cigarettes in Ohio.*

3. *The enforcement provisions of the Ohio Use Tax Law are available to their full extent against consumers of cigarettes subject to the tax who fail to file returns according to the provisions of Section 5546-29, General Code.*

COLUMBUS, OHIO, April 18, 1938.

*The Tax Commission of Ohio, Columbus, Ohio.*

GENTLEMEN: You recently requested an opinion involving the following facts: