

This lease is executed under the general authority conferred upon you by Section 13965, General Code, and under the more special provisions of the Act of June 7, 1911, 102 O. L., 293, as amended by the later act of the 88th General Assembly passed April 5, 1929, 113 O. L., 525. By this later act, municipalities and owners of abutting property, in the order named, are given prior rights with respect to the lease of canal lands abandoned by said act which are located in the municipality. In this situation, I assume, with respect to the lease here in question, that the village of Groveport made no application for the lease of this property within the time limited by this act and that, likewise, no owner of abutting property other than the lessee above named has now pending any application for the lease of this property which would make this lease to James E. Hicks in any respect illegal.

With these assumptions I find, upon examination of the provisions of this lease and of the conditions and restrictions therein contained, that the same are in conformity with the statutory provisions above referred to and with other statutes relating to leases of this kind. And since it appears that this lease has been executed by you as Superintendent of Public Works and as Director of said department, and by James E. Hicks, the lessee therein named, in the manner provided by law, I am approving this lease as is evidenced by my approval endorsed thereon and upon the duplicate and triplicate copies thereof, all of which are herewith enclosed.

Respectfully,

HERBERT S. DUFFY,

Attorney General.

3116.

STATUS—ABSTRACT OF TITLE, TWO PARCELS OF LAND, CITY OF VAN WERT, VAN WERT COUNTY, OHIO, ESTATE OF CLYDE A. L. PURMORT, TITLE TO COME TO STATE OF OHIO BY DONATION OR GIFT FOR CONSTRUCTION OF STATE ARMORY FROM FUNDS APPROPRIATED BY GENERAL ASSEMBLY.

COLUMBUS, OHIO, October 19, 1938.

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

DEAR SIR: You have submitted for my examination and approval an abstract of title of two certain parcels of land in the City of Van Wert, Van Wert County, Ohio, which are to be acquired for and in the name

of the State of Ohio as a site upon which to erect a state armory. These parcels of land are described as follows:

PARCEL 1. Beginning at the point where the south bank of Town Creek crosses the east line of Washington Street; thence south along said east line of Washington Street about one hundred and four (104) feet to a stone; thence south forty (40) degrees east fifty-eight (58) feet to a stone; thence north seventy-eight (78) degrees east about ninety-eight (98) feet to the line between Sub-division 149 and Subdivision 150 if extended northward; thence south about fourteen (14) feet to a pipe marking the northwest corner of Sub-division 150; thence east fifty-seven (57) feet to a stake and stone marking the southwest corner of Subdivision 151; thence along the west line of Sub-division 151 to the south bank of Town Creek; thence westerly along said south bank of Town Creek to the place of beginning and containing .6 of an acre, more or less.

PARCEL 2. All of that part of Sub-division number one hundred and fifty-one (151) lying west of the west line of the alley running through said Sub-division and excepting therefrom a strip of land off of the west side thereof now used as a part of what is known as the Fourth-Ward Park in said City of Van Wert, Ohio, said strip so used as part of said park being fifty-seven (57) feet wide.

With the abstract of title you have submitted to me copies of certain executed deeds covering the above described property or parts of the same. The first of these deeds is one executed under date of September 17, 1938, by the Board of County Commissioners of Van Wert County conveying to one Wilbur E. Beach the first parcel of land above described. The second deed here referred to is one executed under date of September 19, 1938, by one Bertha G. Purmort conveying to said Wilbur E. Beach the second parcel of land above described. The third deed referred to in this connection is one executed under date of September 19, 1938, by Wilbur E. Beach and Delora G. Beach, his wife, conveying both of the above described parcels of land to the State of Ohio. The other deed here referred to is one executed by William Osborn, a widower and unmarried, in and by which he remises, releases and forever quit claims to the State of Ohio by a proper description by metes and bounds a 57-foot strip of land off the east side of the above described parcel which is apparently owned of record by said William Osborn but which, together with the remaining lands in the parcel first above described, has been used as a public park.

Upon examination of the abstract of title in connection with the deeds above referred to, copies of which deeds have been examined by me, I find that said Wilbur E. Beach has a good merchantable title to both of the above described parcels of land except as to the 57-foot strip off the east side of the parcel of land first above described; and that the deed executed by Wilbur E. Beach and wife to the State of Ohio, together with the deed executed by said William Osborn to the State of Ohio, will vest in the State of Ohio an indefeasible fee simple title to both of the above described parcels of land. I further find that these deeds as executed will convey this property to the State of Ohio free and clear of all encumbrances except the undetermined taxes for the year 1938 and except, as to the second parcel of land above described, the lien of the inheritance taxes on the succession of this property to Bertha G. Purmort under the last will and testament of Clyde A. L. Purmort who died on or about the 7th day of August, 1938. Although administration has been duly granted of the estate of said Clyde A. L. Purmort, which administration is by Bertha G. Purmort as executrix of said estate, the administration of this estate has not been closed and it does not appear that the debts of the estate of Clyde A. L. Purmort have been paid or that the inheritance taxes accruing on the successions of Bertha G. Purmort, as the sole devisee under said last will and testament, have been determined and paid. It appears from the abstract that said Clyde A. L. Purmort left an estate of something more than \$130,000.00 and, unless the estate is heavily indebted, no difficulty should be encountered by you or your representatives in having proper arrangements made to protect the State of Ohio as against the lien of inheritance taxes and of the debts of said estate, so far as the second parcel of land above described is concerned, which is the only parcel of land in any wise affected by the debts, if any, of the estate of said Clyde A. L. Purmort.

As above noted, I have not as yet seen the original deeds above referred to and, needless to say, an opportunity should be given to me of examining such deeds before the transaction is closed for the acquisition of this property by the State.

In this connection, it is noted that so far as the State of Ohio is concerned, it is taking title to this property by donation or gift for use by the State in the construction thereon of a state armory from funds appropriated by the General Assembly to your department for this purpose; and for this reason no contract encumbrance record is required in connection with the acquisition of this property; and, of course, no approval by the Controlling Board of such acquisition is necessary.

I am herewith enclosing for your further consideration in the acquisition of this property said abstract of title, the copies of the

several deeds above referred to, and the other files which you submitted to me in connection with this matter.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

3117.

APPROVAL—CANAL LAND LEASE, STATE OF OHIO THROUGH SUPERINTENDENT OF PUBLIC WORKS TO STINSON DETTY, GROVEPORT, OHIO, TERM FIFTEEN YEARS, ANNUAL RENTAL \$7.50, CERTAIN DESCRIBED PORTION ABANDONED OHIO CANAL PROPERTY, MADISON TOWNSHIP, FRANKLIN COUNTY, OHIO, RIGHT TO OCCUPY AND USE FOR PASTURAGE AND AGRICULTURAL PURPOSES.

COLUMBUS, OHIO, October 20, 1938.

HON. CARL G. WAHL, *Director, Department of Public Works, Columbus, Ohio.*

DEAR SIR: You recently submitted for my examination and approval a certain canal land lease in triplicate executed by you as Superintendent of Public Works and as Director of said department to one Stinson Detty of Groveport, Ohio.

By this lease, which is one for a stated term of fifteen years and which provides for an annual rental of \$7.50, there is leased and demised to the lessee above named the right to occupy and use for pasturage and agricultural purposes that portion of the abandoned Ohio Canal property, located in Madison Township, Franklin County, Ohio, and described as follows:

Being the portion of said canal property, lying between the southerly line of said canal land property and the southerly line of that portion of said canal property leased to the Scioto Valley Traction Company under date of December 28, 1916, and extending from Station 1938+64, of W. J. Slavins Survey of said canal property, nine hundred (900') feet, westerly, as measured along the transit line of said survey to Station 1947+64, same being the easterly line of what is known as "Oregon Road" and containing one and three-tenths (1.3) acres, more or less.