

Maryland, its power of attorney for its signer, its financial statement and its certificate showing compliance with the laws of Ohio relating to surety companies.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other papers submitted in this connection.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

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1529.

APPROVAL—ABSTRACT OF TITLE, WARRANTY DEED,  
AND CONTRACT ENCUMBRANCE RECORD RELATING  
TO THE PURCHASE OF A PARCEL OF LAND IN FRANK-  
LIN TOWNSHIP, PORTAGE COUNTY, OHIO.

COLUMBUS, OHIO, November 23, 1937.

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

DEAR SIR: You recently submitted for my examination and approval an abstract of title and continuation thereof, warranty deed, contract encumbrance record No. 2194 and other files relating to the proposed purchase by the State of Ohio of a parcel of land in Franklin Township, Portage County, Ohio, which is being acquired through your department for and in the name of the State for the use of Kent State University. This parcel of land, which is apparently owned of record by William Thomas and Clara M. Thomas, is more particularly described in the deed tendered by them to the State of Ohio as follows:

Being part of Township Lot No. 13 in said Township and known as the same parcel of land originally conveyed by Reese J. Davis to Clarence Weideman by deed dated May 15, 1928, and recorded in Vol. 313, Page 494, Portage County Record of Deeds and more particularly described as follows: Beginning at an iron pipe set on the northerly line of Summit Street (60 ft. wide) North 50° 13' West 342.55 feet from where the northerly line of said Summit Street crosses the east line of Township Lot No. 13; thence continuing along the northerly line of said street North 50° 13' West 50.00 feet

to an iron pipe; thence North 35° 40' East 160.00 feet to an iron pipe; thence South 50° 13' East parallel to said street 50.00 feet to an iron pipe; thence South 35° 40' West 160.00 feet to the place of beginning and containing 0.1831 acres of land be the same more or less subject to all legal highways as surveyed September 15, 1937, by P. H. Evans, Registered Surveyor.

Inasmuch as the only title which William Thomas and Clara M. Thomas have in and to the above described parcel of land is that conveyed to them by deed under date of July 2, 1930, of Clarence Weideman and Christina Weideman who, in turn, acquired their title to this property by deed under date of May 15, 1928, from Reese J. Davis and Charlotte E. Davis, and since the parcel of land here in question is a part of a larger tract of land acquired by Reese J. Davis and Charlotte E. Davis, as to one undivided one-half interest therein from P. B. Hall, administrator of the estate of Anna Woodworth, deceased, and as to the other undivided one-half interest therein from one Helen A. Hall by deed under date of May 15, 1926, it is obvious that the objections noted as exceptions 1, 2 and 3 in Opinion No. 1473 directed to you under date of November 17, 1937, relating to the property described in the deed of Reese J. Davis and Charlotte E. Davis to the State of Ohio, apply as well to the title of William Thomas and Clara M. Thomas to the parcel of land above described.

In addition to the objections above noted set out in said opinion with respect to the Reese J. and Charlotte E. Davis property, to which your attention is called, a question is here presented as to whether this parcel of land, as the same is described in the deed of William Thomas and Clara M. Thomas tendered to the State, is in all respects identical with the parcel of land conveyed by Reese J. Davis and Charlotte E. Davis to Clarence Weideman and Christina Weideman and, later, by them to William Thomas and Clara M. Thomas.

From the abstract of title, it appears that the conveyances last above referred to were by descriptions of this parcel of land in terms quite different from those employed in the description of the property as the same is set out in the deed tendered by William Thomas and Clara M. Thomas to the State. In the deed by which the property was conveyed by Reese J. Davis and Charlotte E. Davis to Clarence Weideman and Christina Weideman and in the deed by which Clarence Weideman and Christina Weideman conveyed the property to William Thomas and Clara M. Thomas, this property, according to the abstract of title and the extension thereof, was described as set out in the caption of the first extension to the abstract as follows:

Situated in the City of Kent, County of Portage, and State of Ohio, and known as being part of and lying in the N.E. corner of lot No. 13 of Franklin township, and known as part of the McBride farm on the North side of the Rootstown Road, and bounded by beginning at an iron gase pipe driven one foot from the sidewalk, at the street line, approximately 116 feet Southeasterly from the Southwesterly corner of the land of grantors' (Reese J. and Charlotte E. Davis) as conveyed by deed recorded in Volume 298 page 70 and deed from Helen A. Hall, and running thence Northeasterly parallel with the Northwesterly line of said land 160 feet to an iron pipe; thence Southeasterly parallel the sidewalk line 50 feet to an iron pipe; thence Southwesterly parallel with the first described line 160 feet to an iron pipe one foot from the sidewalk; and thence Northwesterly one foot from the sidewalk line 50 feet to the place of beginning, containing .184 of an acre of land, more or less.

The description of this parcel of land as the same is set out in the deed tendered by William Thomas and Clara M. Thomas to the State seems to have been written with reference to the description contained in the deed tendered to the State by Reese J. Davis and Charlotte E. Davis, or vice versa, with the exception that the frontage of the property in the Thomas deed is given with respect to the lot line while that in the Davis deed is given with respect to the center of Summit Street formerly Rootstown Road.

In any view, it is apparent that the Thomas property has a frontage of fifty feet and a depth, figuring from the lot line on Summit Street, of one hundred and sixty feet. However, reading the description of this parcel of land as the same is set out in the Thomas deed with the description of the property in the Davis deed which is set out in Opinion No. 1473, above referred to, and with the plat or blue print of these properties which has been submitted to me, it appears that the west line of the Thomas property at the point where said west line intersects the north line of Summit Street is something more than one hundred and forty-five feet from the southwest corner of the Davis property. While in the description of the parcel as conveyed by the Davises to the Weidemans and by the Weidemans to the Thomases, the west line of the parcel of land thereby conveyed is given as approximately one hundred and sixteen feet from the southwest corner of the property then and now owned by Reese J. and Charlotte E. Davis. It is apparent that this discrepancy in the descriptions contained in these deeds relating to the Thomas

property touching the question of the location of this property on Summit Street, may properly give rise to some question as to just what property is conveyed to the State by the Davis deed which describes the property therein conveyed with reference to the Thomas property as the same is set out in the deed tendered by the Thomases to the State. In any event, it is desired that such further information should be furnished and be made a part of the abstract as will show the identity of the property which the Thomases are deeding to the State with that conveyed by the Davises to the Weidemans and by the Weidemans to the Thomases.

Other than the exceptions above noted and referred to, this property as of the date of the certification of the last extension to the abstract September 7, 1937, is free and clear of all liens and encumbrances except the taxes on the property for the year 1937. I am herewith returning to you the last extension of the abstract of title submitted to me with respect to the above described property for further information touching the objections referred to and noted in this opinion. I am retaining the original abstract of title, the warranty deed tendered by the Thomases and other files relating to the purchase of this property until such time as the additional information herein requested is furnished to me.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

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1530.

JOINT OWNERSHIP OF BUILDING BY VILLAGE AND TOWNSHIP—MAY BE TAXED AS PRIVATE ENTERPRISE, WHEN—SECTION 5356 NOTWITHSTANDING—COUNTY AUDITOR MUST DETERMINE REASONABLE VALUE ACCORDING TO THE TAX DUPLICATE VALUATION.

*SYLLABUS:*

1. *Where a building is owned jointly by a village and a township, and such building is used for both public and private purposes, including the mayor's office, township trustees' offices, village jail, opera house, and, in addition, rooms which are rented for private purposes or business, the value of the portion of the public building so rented for private purposes or business shall, to that extent, be subject to taxation, notwithstanding the limitation contained in Section 5356, General Code. (The*