

1648.

APPROVAL, BONDS OF DELAWARE COUNTY, OHIO, IN AMOUNT OF \$4,000 FOR IMPROVING DELAWARE COUNTY HOME.

COLUMBUS, OHIO, November 12, 1920.

*Industrial Commission of Ohio, Columbus, Ohio.*

1649.

APPROVAL, FINAL RESOLUTIONS FOR ROAD IMPROVEMENTS IN MONTGOMERY COUNTY, OHIO.

COLUMBUS, OHIO, November 12, 1920.

HON. A. R. TAYLOR, *State Highway Commissioner, Columbus, Ohio.*

1650.

ARMORY—APPROVAL OF ABSTRACT OF TITLE FOR ARMORY AT ST. MARYS, OHIO.

COLUMBUS, OHIO, November 12, 1920.

HON. ROY E. LAYTON, *Adjutant General of Ohio, Columbus, Ohio.*

DEAR SIR:—You have submitted an abstract, certified to by L. O. Hirsch, attorney-at-law, of St. Marys, Ohio, on October 9, 1920, and request an opinion as to the status of the title to the following described premises as disclosed by said abstract which premises it is understood the Community Welfare Association of St. Marys contemplates donating to the state for armory purposes:

“Situate in the city of St. Marys, county of Auglaize, and state of Ohio, to-wit: a parcel of land being a portion of out-lot fifty-six (56), a portion of out-lot fifty-seven (57), and a portion of block forty (40) of the East addition, all of the foregoing being in the city of St. Marys, Auglaize county, Ohio,—the premises hereby conveyed being particularly described as follows: Beginning at a point on the south line of South street in said city seventy-five (75) feet east of the intersection of the center line of Chestnut street extended south to the said south line of South street; thence southerly at right angles to the south line of South street one hundred and twenty (120) feet to a point; thence westerly parallel with the south line of South street one hundred and fifty (150) feet to a point; thence northerly at right angles to the south line of South street one hundred and twenty (120) feet to the south line of South street; thence easterly along the south line of South street one hundred and fifty (150) feet to the place of beginning.”

In accord with a suggestion of this department made directly to the abstrac-

ter, the abstract has been supplemented by a tracing showing the relative location of said premises with South and Chestnut streets of St. Marys, Ohio; also by an affidavit showing that the Community Welfare Association and its predecessors in title have been in the continuous, open and notorious possession of said premises, adverse to the claims of all other persons, for more than twenty-one years. The abstracter has also secured and submitted a quit claim deed from the city of St. Marys to the Community Welfare Association, wherein said city releases any claim it may have to said premises.

While there are numerous defects in the chain of title as shown by the abstract, it is believed that if the facts recited in said affidavit are given full credit, to which it is believed they are entitled, the abstract, with the supplements above mentioned, discloses a sufficient title to said premises to be in the name of the Community Welfare Association, subject to the incumbrances hereinafter noted.

On page 54 a mortgage is shown which was given upon a part of said premises by William Bainbrook and wife to B. A. Wendeln and son, dated August 20, 1875, and given to secure the payment of the sum of thirteen hundred dollars. The abstract does not show this to have been released upon the record. However, Mr. Hirsch, the attorney who prepared the abstract, advises that this mortgage was assigned to Albert Althausen, who was named as one of the defendants in the condemnation proceedings in the case of Incorporated Village of St. Marys, Ohio, vs. William Barnbrook et al., which took place in the year 1889, the record of which is shown on page 21 of the abstract. He further advises that the payment of said mortgage was provided for in said proceedings. In view of this statement, together with the time that has elapsed, it is believed that the fact that said mortgage is not released upon the record need not be regarded as a serious objection.

On page 61 of the abstract a mortgage is shown which was granted by O. W. Schmehl and wife to the Concordia Building and Savings Association of New Bremen, Ohio, on September 27, 1919, which covers a part of the premises under consideration, and was given to secure the payment of twenty-five hundred dollars, with interest. The abstract shows this has not been released upon the record and, of course, it constitutes a lien upon said premises. Before accepting a conveyance of said premises you should require that this mortgage be paid and released upon the record. The taxes for the year 1920 are also a lien upon the premises.

You also have submitted a form of deed to be executed by the Community Welfare Association to convey said premises to the state. Said deed was returned to the abstracter with the suggestion that the same be corrected by changing some of the language in the description clause. The correction was made and the deed returned to this department. It is believed that when said deed is properly executed by the officers of the Community Welfare Association and delivered it will be sufficient to convey the interest of the Community Welfare Association to the state.

The quit claim deed from the city of St. Marys, above referred to, should be placed upon record in Auglaize county.

The abstract and deeds are enclosed herewith.

Respectfully,  
JOHN G. PRICE,  
*Attorney-General.*