

any association or to the township trustees of Madison Township in which it is understood the village of Greenfield is located. You further state that you have ruled that under the provisions of Section 4174 of the General Code, the title to said cemetery is in the village of Greenfield. Section 4174, General Code, reads as follows:

"The title to, and right of possession of public graveyards and burial grounds, located within a village and set apart and dedicated as public graveyards or burial grounds, grounds used as such by the public, but not dedicated, except those owned or under the care of a religious or benevolent society, or an incorporated company or association, are hereby vested in the corporation where such graveyard or burial ground is located."

An analysis of the section last above quoted clearly discloses that the title and right of possession of cemeteries located within a village and dedicated to the public and grounds used as such by the public but not dedicated are vested in the municipality excepting such cemeteries owned or under the care of religious or benevolent societies or an incorporated company or association. Applying the plain provisions of said section to the facts which you present the conclusion is irresistible that the title to such lands is in the village of Greenfield.

Your attention is called to Section 4174-1, General Code, as enacted by the 87th General Assembly, in 112 O. L., 60, in which there is authority for the transferring of title of a cemetery from a village to a township under the circumstances therein set forth. However, inasmuch as you do not indicate that any such action was taken, it is believed unnecessary to give any further consideration to the provisions of said section.

In specific answer to your inquiry, it is my opinion that where a cemetery is duly platted and dedicated to public use, and lies within the limits of an incorporated village and is not owned or under the care of a religious or benevolent society or an incorporated company or an association, the title to said cemetery is vested in the village.

Respectfully,

EDWARD C. TURNER,

Attorney General.

1975.

APPROVAL, LEASE FOR RIGHT TO USE WATER TAKEN FROM THE
LEVEL OF THE TUSCARAWAS FEEDER TO EAST RESERVOIR IN
THE CITY OF AKRON, SUMMIT COUNTY, OHIO.

COLUMBUS, OHIO, June 13, 1930.

HON. ALBERT T. CONNAR, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination and approval a certain water lease in triplicate, by the terms of which the State of Ohio, through you as Superintendent of Public Works, has leased and granted to the Tuscarawas Country Club of Akron, Ohio, an Ohio corporation, the right and privilege to take from the level of the Tuscarawas Feeder to East Reservoir in Summit County, Ohio, a quantity of water amounting approximately to 3,000 gallons per hour for the term of five years, said water to be taken in each of the years during said term only from the first day of June to the thirty-first day of October, inclusive.

By the terms of said lease the above named lessee is to pay to the State of Ohio

the sum of \$60.00 annually, with the further provision that all water taken by said lessee over and above the amount of 10,800,000 gallons per year, shall be paid for at the rate of 5.66 mills per 1,000 gallons.

Upon consideration of the terms of said lease, I do not find therein any reference to the matters provided for by Section 14012, General Code; but inasmuch as the possibility of the use of the water in the Feeder from which this water is to be taken for navigation purposes is extremely remote, and the provisions of said statute are by law to be considered a part of said lease, I am not disposed to disapprove the lease on account of the objection here noted. And finding the terms of said lease to be otherwise in accordance with the provisions of Section 14009, General Code, and with those of other related sections, said lease is accordingly by me approved as to legality and form, as is evidenced by my authorized signature upon said lease and upon the duplicate and triplicate copies thereof.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1976.

APPROVAL, LEASE TO LAND IN OXFORD TOWNSHIP, COSHOCTON COUNTY, OHIO, FOR COTTAGE SITE AND AGRICULTURAL PURPOSES—H. M. FISHER—GEORGE L. ACKERMAN.

COLUMBUS, OHIO, June 13, 1930.

HON. ALBERT T. CONNAR, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You will find enclosed herewith a certain canal land lease in triplicate which has been executed by you as Superintendent of Public Works on behalf of the State of Ohio, by which you have leased and demised to H. M. Fisher and George L. Ackerman of New Philadelphia, Ohio, for a term of 15 years, the right to use and occupy for the purposes of a cottage site and for agricultural purposes a certain parcel of Ohio canal land, located in Oxford Township, Coshocton County, Ohio, and more particularly described as follows:

Beginning at a line drawn at right angles through Station 3178 on the transit line of the G. F. Silliman survey, and running thence southwesterly with the lines of said canal property, one hundred (100) feet, to a line drawn at right angles through Station 3179; reserving therefrom any portion of the above described property that may be occupied by the Public Highway.

The parcel of land covered by this lease has been valued at the sum of \$100.00, and the annual rental reserved in said lease for the use and occupancy of said parcel of land is \$6.00, payable in semi-annual installments of \$3.00 each.

Upon examination of the provisions of said lease, I find that the same conform to the provisions of Sections 13965 et seq., Section 464, and of other related sections of the General Code applicable in the consideration of leases of that kind. Said lease is, therefore, approved by me as to legality and form and I have endorsed my approval upon said lease and upon the duplicate and triplicate copies thereof.

Respectfully,
GILBERT BETTMAN,
Attorney General.