

3250.

APPROVAL, CORRECTED ABSTRACT OF TITLE, ETC., TO LAND SITUATED AT WILMINGTON, CLINTON COUNTY.

COLUMBUS, OHIO, September 26, 1934.

HON. O. W. MERRELL, *Director, Department of Highways, Columbus, Ohio.*

DEAR SIR:—There have been submitted to me for my examination and approval a corrected abstract of title, warranty deed, encumbrance record No. 1447 and Controlling Board certificate, relating to the proposed purchase by the State of Ohio for the use of your department of a tract of land situated at Wilmington, Clinton County, Ohio, the same being a part of Virginia Military Land Survey No. 2690 and being more particularly described as follows:

Beginning at a point in the center of Rombach Avenue corner to Earl Steele's lot; thence with the center of said Rombach Avenue N. 75° E. 300 feet to a new line through the land of said Williams of which this is a part; thence with said new line S. 14½° E. 1336 feet to the center of Fife Avenue; thence with the center of said Fife Avenue N. 55° W. 465 feet to an angle in said avenue; thence again with the center of said Avenue N. 80½° W. 217.8 feet to the corner of Alice L. Boone's lot; thence with said Boone's line and passing her corner and continuing with the line of Earl Steele N. 14½° W. 888.36 feet to the place of beginning; containing 12.28 acres more or less.

Upon examination of the corrected abstract of title, I find that Katherine Denver Williams, the owner of record of the above described tract of land, has a good merchantable title to this property, free and clear of all liens and encumbrances except the undetermined taxes for the year 1934 upon the larger tracts of land of which that above described is a part. With respect to such taxes, it is suggested that those that stand as a lien against this property should be segregated from the 38.84 and 29.16 acre tracts of land from which the 12.28 acre tract of land here in question is taken, and that after such segregation the determined taxes for the year 1934 upon this 12.28 acre tract of land should be either remitted on the tax list and duplicate of the county auditor or some arrangements should be made with respect to the payment of the same.

Upon examination of the warranty deed tendered by Katherine Denver Williams, who, it appears, is unmarried, I find that this deed has been properly executed and acknowledged by said grantor, and that the form of this deed is such that it is legally sufficient to convey this property to the State of Ohio by fee simple title, free and clear of all encumbrances whatsoever.

Contract encumbrance record No. 1447, which has been submitted as a part of the files relating to the purchase of the above described property, has been properly executed and the same shows that there is a sufficient unencumbered balance in the proper appropriation account to pay the purchase price of the above described property, which purchase price is the sum of thirty-five hundred dollars. It likewise appears from the files submitted that the purchase of this property has been approved by the Controlling Board and that said board has released the amount of money necessary to pay the purchase price of this property.

The corrected abstract of title, warranty deed, encumbrance record and Con-

trolling Board certificate are accordingly hereby approved by me and the same are herewith returned to the end that a proper voucher may be prepared covering the purchase price of this property.

Respectfully,
JOHN W. BRICKER,
Attorney General.

3251.

RECORDER—ALTERATION OF ERRONEOUS OR INCOMPLETE RECORD BY COUNTY RECORDER.

SYLLABUS:

1. *A county recorder who has made an erroneous or incomplete record, may, while in office or after reelection to the same office, alter or complete such record to conform to the original instrument. However, such recorder is not authorized to alter or correct errors in the record made by a predecessor in office.*
2. *A county recorder may not accept an original instrument, which had previously been recorded improperly, for re-recording and remit the fee to be charged to the parties presenting the instrument for record.*

COLUMBUS, OHIO, September 26, 1934.

HON. RAY B. WATERS, *Prosecuting Attorney, Akron, Ohio.*

DEAR SIR:—Receipt is acknowledged of a recent communication from your assistant, C. B. MacDonald, as follows:

“The County Recorder is faced with a problem in his office in reference to mistakes which have occurred in the past in the recording of documents in his office. Will you kindly render an opinion as to whether or not the County Recorder has authority to correct errors appearing in his records?”

This question is directed only to errors about which there is no question. The errors generally involve instruments which have been on record for a number of years. By comparing the original instrument with the record, it can be clearly ascertained that an error was made in the original recording of the instrument.

In the event that your opinion is that such errors cannot be corrected, would the Recorder be permitted to accept the original instrument for re-recording, and remit the fee to be charged?

Some of these instances involve home owners' loans, and accordingly, it would be greatly appreciated if we could have your opinion at an early date.”

Section 2759 of the General Code reads in part as follows:

“The county recorder shall record in the proper record * * * all deeds, mortgages, or other instruments of writing required by law to be recorded, presented to him for that purpose. * * *”