

3883.

APPROVAL, BONDS OF VILLAGE OF MAPLE HEIGHTS, CUYAHOGA COUNTY, \$61,700.00.

COLUMBUS, OHIO, December 10, 1926.

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.*

3884.

ABSTRACT, STATUS OF TITLE TO I. B. AND ELLA DERR 5 ACRE TRACT AND MARY DERR AND IRA B. DERR, 47.39 ACRE TRACT OF LAND IN EAST UNION TOWNSHIP, WAYNE COUNTY, OHIO, TO BE USED FOR SITE FOR ADDITIONAL INSTITUTION FOR FEEBLE MINDED IN NORTHERN OHIO.

COLUMBUS, OHIO, December 11, 1926.

Abstract of Title of I. B. and Ella Derr 5 acre Tract, and Mary Derr and Ira B. Derr, 47.39 acre Tract.

HON. JOHN E. HARPER, *Director, Department of Public Welfare, Columbus, Ohio.*

DEAR SIR:—Examination of an abstract of title of I. B. Derr and Ella Derr to 5 acres in the northeast corner of the northeast quarter of section 20, township 16, range 12, and also the abstract of title of Mary Derr and Ira B. Derr to 47.39 acres in the southeast corner of the southeast quarter of section 17, township 16, range 12, all in East Union township, Wayne county, Ohio, all of which premises are more particularly described by metes and bounds in the captions to the abstracts therefor submitted herewith, and which lands are to be used as a part of the site for an additional institution for the feeble minded in Northern Ohio.

The will of James Finley shown on page 6 of the abstract No. 1242 gives Esther Finley a life estate in the above described 5 acre tract. However, the affidavit of J. W. Ramsey shown on page 17 of said abstract shows that said Esther Finley has been dead for many years so that her life estate has been extinguished.

The deed shown on page 31 of abstract No. 1242 contains a recital with respect to driveway privileges. An actual examination of the premises, however, shows that this driveway does not cross captioned premises but crosses parcel No. 1 in said deed described, which are the premises contracted for by the state from Daniel W. McClelland, et al.

There is nothing to show who the heirs of Jacob Franks named on page 5 of the abstract No. 1244 were. However, I think the note of the abstracter shown on page 6 is correct as the subsequent items would seem to indicate that the persons named in said note were all and the only heirs of said Jacob Franks, except that his widow's name was perhaps Margaret instead of Martha. However, she is no doubt dead by this time as the deed to Jacob Franks is dated December 20, 1816.

There is nothing in said abstract No. 1244 to show whether or not the grantors named on pages 10, 12 and 13 were married at the time of the execution of these conveyances. However, these deeds are dated 1855, 1856 and 1862 respectively so that I am of the opinion that the question of dower may be disregarded.

The deed shown on page 20 of abstract No. 1244 should have perhaps covered the west half of the quarter instead of an undivided two and one-half acres. However, this deed was made in 1870 and the grantors have only a one-twenty-fourth interest and have apparently made no claim since the date of said conveyance so that I am of the opinion that this also may be disregarded.

The error in the description in the deed on page 21 and the fact that no power of attorney is on record authorizing the cancellation of the mortgage for \$750.00 released in 1873, page 30, are both inconsequential and may be disregarded. On page 42 of said abstract No. 1244 is an uncancelled mortgage now held by A. K. Miller of Wooster, Ohio, which the vendors in their contract of sale agree to pay and payment of which should be made a condition of the delivery of the voucher.

There is submitted herewith the oil and gas lease now held by The Logan Gas Company as set forth on pages 48 and 49 of said abstract No. 1244, on which is an assignment to the State of Ohio, which lease the state in its contract of purchase agreed to assume.

The abstract does not show the transfer from Thomas H. Derr to his heirs. However, an affidavit for transfer was filed for record December 6, 1926, showing said Thomas H. Derr, otherwise known as T. H. Derr, to have died intestate, September 26, 1922, leaving Mary Derr his widow, and Ira B. Derr, otherwise known as I. B. Derr, as his son and only child. Said affidavit further sets forth that no administration was had of his estate; that all the debts and claims thereof have been paid; and that his estate was not of sufficient size to be subject to the inheritance tax law.

Taxes for the year 1926, on the 5 acre tract amounting to \$5.24 and shown on page 37 of abstract No. 1242 and taxes for the year 1926, the amount of which is undetermined on the 47.39 acre tract, shown on page 50 of abstract No. 1244 are a lien. However, the vendors have agreed in their contract of sale to pay these taxes. Payment should of course be made a condition of the delivery of the voucher.

In view of the above explanation, I am of the opinion that said abstracts show a good and merchantable title to said 5 acres in I. B. and Ella Derr and to said 47.39 acres in said Mary and I. B. Derr.

A warranty deed from Mary Derr, a widow and now unmarried, I. B. Derr and wife, Ella Derr, is submitted herewith, and is in my opinion sufficient to convey the title of said premises to the State of Ohio.

It also appears from a copy of minutes herewith enclosed that said purchase has been approved by the Controlling Board. A regularly certified encumbrance estimate should accompany this abstract.

The abstract, warranty deed and other data submitted are herewith returned.

Respectfully,

C. C. CRABBE,  
*Attorney General.*