

It would seem then, that in the use of the words "highways, roads and streets", by the legislature, bridges and viaducts are not a part of such highway, roads or streets.

This theory of interpretation is strengthened by the language used by the legislature in defining "maintenance and repair", as follows:

" 'Maintenance and repair' as used in this section, includes all work done upon any public road or highway, or upon any street, in which the *existing foundation* thereof is used as the *sub-surface* of the improvement thereof, in whole or in substantial part."

The word "foundation" has been defined as "that on which anything is founded or grounded." A bridge or viaduct rests upon piers or abutments, and no part of either a bridge or a viaduct is known as a "sub-surface."

In conclusion, I am of the opinion, and you are advised, that bridges and viaducts are not part of a street, road or highway, within the meaning of Section 6309-2 of the General Code, and a city is without authority to expend its portion of the motor vehicle license tax, or any part thereof, for the maintenance and repair of such bridges and viaducts.

Your inquiry does not go to the question of whether or not the fund created by the statute under discussion may be used by a municipal corporation in the maintenance and repair of the surface or pavement covering a bridge or viaduct and that question is not considered herein.

Respectfully,

C. C. CRABBE,
Attorney-General.

1555.

ABSTRACT, STATUS OF TITLE, LOT NO. 98, HAMILTON'S SECOND GARDEN ADDITION, COLUMBUS, OHIO.

COLUMBUS, OHIO, June 2, 1924.

HON. CHARLES V. TRUAX, *Director of Agriculture, Columbus, Ohio.*

Dear Sir:

An examination of an abstract of title submitted by your office to this department discloses the following:

The last continuation of the abstract under consideration bears date of May 26, 1924, and pertains to the following premises:

Being Lot No. 98, of Hamilton's Second Garden Addition to said City, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book No. 7, page 186, Recorder's Office, Franklin County, Ohio, excepting six feet off the rear end thereof reserved for use as an alley.

Upon examination of said abstract, I am of the opinion same shows a good

and merchantable title to said premises in Prosper Abrams, subject to the following exceptions:

There appear to be one or two minor deficiencies in the early history of the title, but I am of the opinion, because of a considerable lapse of time, same may be disregarded.

Attention is directed to certain restrictions against the use of the premises for the erection of any buildings to be used for slaughter houses, the killing of animals or the use of said premises for the sale of intoxicating liquors or malt beverages. These restrictions follow the premises for a period of twenty-five years from the date of the subdivision.

The abstract states no examination has been made in the United States District or Circuit Courts or any subdivision thereof.

Taxes for the last half of the year 1923, amounting to \$15.54, due and payable in June, 1924, and the taxes for the year 1924, amount not yet determined, are a lien.

It is suggested that the proper execution of a general warranty deed by Prosper Abrams will be sufficient to convey the title of said premises to the State of Ohio when properly delivered.

Attention is also directed to the necessity of the proper certificate of the Director of Finance, to the effect that there are unincumbered balances legally appropriated sufficient to cover the purchase price before the purchase can be consummated.

The abstract is herewith returned.

Respectfully,
C. C. CRABBE,
Attorney General.

1556.

ABSTRACT, STATUS OF TITLE, LOTS 69 AND 70, HAMILTON'S SECOND GARDEN ADDITION, COLUMBUS, OHIO.

COLUMBUS, OHIO, June 2, 1924.

HON. CHARLES V. TRUAX, *Director of Agriculture, Columbus, Ohio.*

Dear Sir:

An examination of an abstract of title submitted by your office to this department discloses the following:

The last continuation of the abstract under consideration bears date of May 27, 1924, and pertains to the following premises:

Being Lots 69 and 70, of Hamilton's Second Garden Addition to the City of Columbus, Ohio, as the same are numbered and delineated upon the recorded plat thereof, of record in Plat Book 7, page 186, Recorder's Office, Franklin County, Ohio, excepting six feet off the rear end of each of said lots reserved for use as an alley.

Upon examination of said abstract, I am of the opinion same shows a good and merchantable title to said premises in Charles Wooley, subject to the following exceptions: