

visions of the Act of June 7, 1911, 102 O. L., 293, as amended by the later act of the 88th General Assembly passed April 5, 1929, 113 O. L., 524. By this later act, municipalities and owners of abutting property, in the order named, are given prior rights with respect to the lease of canal lands abandoned by said act which are located in the municipality. In this situation, I assume, with respect to the lease here in question, that no owner of abutting property other than the lessee above named has now pending any application for the lease of this property which would make this lease to Helen M. Dobson in any respect illegal.

With this assumption I find, upon examination of the provisions of this lease and of the conditions and restrictions therein contained, that the same are in conformity with the statutory provisions above referred to and with other statutes relating to leases of this kind. And since it appears that this lease has been executed by you as Superintendent of Public Works and as Director of said department, and by Helen M. Dobson, the lessee therein named, in the manner provided by law, I am approving this lease as is evidenced by my approval endorsed thereon and upon the duplicate and triplicate copies thereof, all of which are herewith enclosed.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

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3265.

APPROVAL—CANAL LAND LEASE, STATE OF OHIO, THROUGH DIRECTOR OF PUBLIC WORKS, TO RALPH R. KISER, TROY, OHIO, TERM FIFTEEN YEARS, ANNUAL RENTAL, \$7.50, DESCRIBED PORTION ABANDONED MIAMI AND ERIE CANAL PROPERTY, CONCORD TOWNSHIP, MIAMI COUNTY, OHIO, RIGHT TO OCCUPY AND USE FOR RESIDENTIAL AND AGRICULTURAL PURPOSES.

COLUMBUS, OHIO, November 16, 1938.

HON. CARL G. WAHL, *Director, Department of Public Works, Columbus, Ohio.*

DEAR SIR: This is to acknowledge the receipt of your recent communication with which you submit for my examination and approval a canal land lease, in triplicate, executed by the State of Ohio, through you

as Superintendent of Public Works and as Director of said Department, to one Ralph R. Kiser of Troy, Ohio.

By this lease, which is one for a stated term of fifteen years and which provides for an annual rental of \$7.50, there is leased and demised to the lessee above named the right to occupy and use for residential and agricultural purposes that portion of the abandoned Miami and Erie Canal property, including the full width of the bed and banks thereof, located in Concord Township, Miami County, Ohio, and which is more particularly described as follows:

“Beginning at a line drawn across said canal property at right angles to the transit line of the H. E. Whitlock Survey of said canal property through Station 8168+20, of said survey, and running thence southerly with the lines of said canal property, three hundred (300') feet, as measured along said transit line to a line drawn through Station 8171+20, and containing twenty-four thousand, six hundred (24,600) square feet, more or less; excepting therefrom any portion of the above described property that may be occupied by the Dixie Highway.”

The lease here in question is one executed by you under the authority of the second DeArmond Act, 114 O. L. 546, which Act provides generally for the abandonment for canal purposes of that part of the Miami and Erie Canal between a point in Providence Township, Lucas County, Ohio, to the State Dam near the corporation line of the city of Middletown, Ohio.

Assuming, as I do, that no part of the above described parcel of the Miami and Erie Canal Lands has been designated for highway purposes by the Director of Highways, and that no application for the lease of this parcel or of any part thereof for park purposes has been made by any municipal corporation or any other political subdivision of the State, as provided for in Section 13 of said Act (Sec. 14178-39, G. C.), it appears that you are authorized to execute this lease under Section 19 of said Act, for the term and annual rental provided for in this lease.

Upon examination of this lease, I find that the same has been properly executed by the Superintendent of Public Works, acting for and in the name of the State of Ohio, and by Ralph R. Kiser, the lessee therein named. I am accordingly approving this lease, as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned.

Respectfully,

HERBERT S. DUFFY,

*Attorney General.*