

"When special provision is made in the General Code for the incorporation, organization, conduct or government of corporations formed for any specified purpose, this act shall not apply, but the special provision shall govern unless it clearly appears that the special provision is cumulative.

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In view of Sections 9643 and 8623-12, *supra*, and the absence of provision with respect to the matter of notice of meetings of stockholders of building and loan associations, it is obvious that the provisions of the General Corporation Act must control as to this matter.

Section 8623-44, General Code, contains mandatory provisions with respect to written notices of annual stockholders meetings. Prior to the enactment of the General Corporation Act, there were no statutory requirements as to notice of annual stockholders meetings and it was held that when the regulations fixed the time and place of such meetings without requiring notice, no notice was necessary. *State vs. Bonnell*, 35 O. S. 10; *State, ex rel. vs. Kreutzer*, 100 O. S. 246.

These cases are, however, predicated upon the absence of statutory requirement, it being generally recognized that when the statute requires notice, such notice may not be dispensed with. *Fletcher's Cyclopedia of Corporations*, Vol. 3, pp. 2732-2734.

In view of the foregoing and in specific answer to your question, it is my opinion that notice of annual stockholders meetings of building and loan associations must be given in the manner provided by Section 8623-44, General Code, notwithstanding the fact that the constitution and by-laws of such associations provide when and where said meetings are to be held.

Respectfully,

GILBERT BETTMAN,

Attorney General.

4804.

APPROVAL: CONDITIONALLY, ABSTRACT OF TITLE TO LAND OF
AMBROSE E. TRUBEY, IN RICHLAND TOWNSHIP, DEFIANCE
COUNTY, OHIO.

COLUMBUS, OHIO, December 10, 1932.

HON. EARL H. HANEFELD, *Director of Agriculture, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of a corrected abstract of title, warranty deed and encumbrance record No. 41, relating to the proposed purchase by the State of Ohio of a tract of land containing 3.79 acres in Richland Township, Defiance County, Ohio, the record title to which is in one Ambrose E. Trubey, and which you have submitted to me for the purpose of supplementing the examination of the title to this property heretofore made by me as indicated in my opinion to you under date of August 29, 1932.

As indicated in my former opinion to you, the abstract of title shows a mortgage executed by Ambrose E. Trubey and wife to the Farmers Savings and Loan Association of Defiance, Ohio, under date of March 17, 1928, which mortgage was for the purpose of securing the mortgagors' obligation to said association in the sum of \$5826.00. In the opinion above referred to, you were advised that this mortgage would have to be released as to the property here in question before the transaction for the purchase of this property was closed. In the corrected abstract of title submitted, I find a certified copy of a letter under date of October 13, 1932, directed by one R. L. Miller, Assistant Supervising Receiver, Division of Insolvent National Banks, to A. S. Allsup, Receiver National Bank of Defiance, in which Mr. Miller says, "with the understanding that the debtor will account to your trust for the full amount of the proceeds of the sale, less the payment of taxes, you are authorized to effect an appropriate release of your trust's mortgage insofar as the 3.79 acres of land is concerned. You will insist that Mr. Trubey exhibit to you the tax receipt covering the payment of the taxes herein mentioned." I assume that this refers to the mortgage above mentioned, but as to this it is noted that the abstract does not disclose any assignment of the note and mortgage executed by Ambrose E. Trubey and wife to the Farmers Savings and Loan Association, nor does it show any other connection between the Farmers Savings and Loan Association of Defiance and the National Bank of Defiance. Neither in this connection does the abstract show any facts indicating the authority of the Supervising Receiver of the Division of Insolvent National Banks or of A. S. Allsup, Receiver of the National Bank of Defiance, to release this mortgage on the 3.79 acres of land above referred to.

Inasmuch as the time for closing this transaction prior to the time when the appropriation for the purchase of this property will lapse, is short, it is suggested that representatives of the Division of Conservation in your department go to Defiance within the next few days and take this matter up with the Farmers Savings and Loan Association and with Mr. Allsup, Receiver of the National Bank of Defiance, who will probably be able to exhibit to you the facts showing his authority to release this tract of land from the operation of the mortgage above referred to upon delivery of the warrant covering the purchase price of the property. This warrant will, of course, be executed to Ambrose E. Trubey. If the agreement of the parties is that this mortgage is to be turned over to either the Farmers Savings and Loan Association or to the Receiver of the National Bank of Defiance, the warrant can be endorsed by Mr. Trubey and turned over to the person entitled thereto. In any event, you should see that the tract of land here in question is released from the operation of the mortgage before or at the time the warrant is delivered.

The corrected abstract of title still indicates that the taxes for the last half of the year 1931 and the taxes for the year 1932 are unpaid and are a lien on the property.

In my former opinion to you above referred to, your attention was called to the fact that there were certain road assessments on the entire Trubey tract of land, of which the 3.79 acre tract of land is a part, and it was there suggested that the assessments, as well as the taxes properly apportioned to the 3.79 acre tract of land, should be allocated and paid. It is shown by the corrected abstract of title that the road assessments against this particular tract of land have been released. However, the taxes above referred to should be apportioned to this tract of land and paid.

The warranty deed tendered by Mr. Trubey and the encumbrance record above referred to were approved by me in my former opinion.

I am herewith returning to you said corrected abstract of title, warranty

deed, encumbrance record No. 41 and other files relating to the purchase of this property.

Respectfully,
GILBERT BETTMAN,
Attorney General.

4805.

APPROVAL: CONTRACT BETWEEN THE STATE OF OHIO AND THE PICKREL PLUMBING, INC., DAYTON, OHIO, FOR THE CONSTRUCTION AND COMPLETION OF PLUMBING FOR DAYTON STATE HOSPITAL, DAYTON, OHIO, AT AN EXPENDITURE OF \$7,020.00—SURETY BOND EXECUTED BY THE COMMERCIAL CASUALTY INSURANCE COMPANY OF NEWARK, NEW JERSEY.

COLUMBUS, OHIO, December 10, 1932.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by the Department of Public Works, for the Department of Public Welfare (Dayton State Hospital), and the Pickrel Plumbing, Inc., Dayton, Ohio. This contract covers the construction and completion of contract for Renewal of Plumbing for Dayton State Hospital, Dayton, Ohio, in accordance with Item No. 1, Item No. 2 (Alternate A), and Item No. 3 (Alternate B) of the form of proposal dated September 26, 1932. Said contract calls for an expenditure of seven thousand and twenty dollars (\$7,020.00).

You have submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract. You have also furnished evidence to the effect that the consent of the Controlling Board and Emergency Board to the expenditure has been obtained, as required by section 8 of House Bill No. 624 of the 89th General Assembly. In addition, you have submitted a contract bond, upon which the Commercial Casualty Insurance Company of Newark, New Jersey, appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law and the contract duly awarded. Also it appears that the laws relating to the status of surety companies and the workmen's compensation act have been complied with.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,
GILBERT BETTMAN,
Attorney General.