

2794.

STATUS, ABSTRACT OF TITLE, PREMISES IN ATHENS, ATHENS COUNTY, OHIO, TO BE CONVEYED TO OHIO UNIVERSITY.

COLUMBUS, OHIO, January 16, 1922.

Ohio University, Athens, Ohio.

GENTLEMEN:—You have submitted two abstracts, one prepared by L. G. Worstell, abstractor, and the other by Emmett Keenan, abstractor, and requested my opinion as to the status of the following described premises as disclosed by said abstracts:

Situate in the state of Ohio, county of Athens, and city of Athens, to wit:

FIRST TRACT. The east half of the west half of inlots numbers twenty-three (23) and twenty-five (25) in said city.

SECOND TRACT. Seventy (70) feet in width north and south off of the north end of the west half of the west half of said inlot number twenty-three (23) except a parcel twenty-nine (29) feet and three (3) inches in width east and west off of the west end of said premises.

THIRD TRACT. Beginning at a point on the east line of inlot number twenty-five (25) in said city, and on the west line of College street, one hundred and twenty-four (124) feet north of the southeast corner of said lot and running thence west to the west line of the east one-half of said inlot number twenty-five (25); thence north to the south side of an alley twelve feet in width; thence east along the south side of said alley to the west side of College street; thence south, along the west side of College street, 40.0 feet to the place of beginning, being the same premises conveyed by David H. Moore to Elizabeth Davis by deed dated November 17th, 1885, and recorded in Vol. 55, page 637 of Records of Deeds of Athens county, Ohio, but subject to Ohio University rents, and including therewith a perpetual right of way over so much of said alley as abuts said premises on the north.

The former abstract relates to the first and second tracts above described, and was supplemented by the abstractor relative to the settlement of the estates of Wallace W. McVay and Anna P. McVay, etc. While there are a number of defects in the chain of title relative to the early transfers, in view of the lapse of time it is my opinion that said abstract, with the supplement thereto, shows a sufficient title to the said first and second tracts above described to be in the name of Lizzie M. Gillilan, Gladys M. Skinner, Bertha W. McVay and Anna Pearl McVay, as heirs at law of Wallace W. McVay and Anna P. McVay. This conclusion, of course, is based upon the assumption that the unrecorded deed, as shown in the abstract, of Herbert R. McVay and wife to Bertha W. McVay, can be properly recorded without any other encumbrances executed by him preceding said deed of record. There are no unreleased mortgages shown against said first and second tracts except that shown on page 42, in which Wallace W. McVay and wife gave a mortgage to Herbert R. McVay to secure the payment of \$889.00. However, the abstractor in the supplement referred to states that this is released, and it would further appear that the mortgagee conveys the same premises to Bertha W. McVay

in the unrecorded deed heretofore referred to. According to the abstract the taxes for the year 1921, amounting to \$168.48, are unpaid. Said taxes are a lien.

You have further submitted Encumbrance Estimate No. 6426, which contains the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in the amount of \$15,500.00 to pay for said first and second tracts.

You have submitted a deed executed by all of the McVay heirs, excepting Herbert R. McVay, which in my opinion is sufficient to convey the title to said premises to the university, in the event that the deed of the said Herbert R. McVay and wife is duly recorded without other conveyances or encumbrances preceding it of record.

The second abstract, which relates to the third tract above described, also discloses a number of defects in the chain of title in connection with the early transfers. A number of conveyances did not disclose whether the grantors were married or single. However, several affidavits have been submitted relating to the defective conveyances, which in my opinion, considered in connection with the lapse of time, render the objections to the early defects unimportant. The original abstract in the opinion of this department disclosed a sufficient title to said third tract to be in the name of Elizabeth Davis, subject to a mortgage given to W. Leo Williams for the sum of \$2,500.00, the taxes for the year 1921, amounting to \$95.68, and Ohio University rents in the sum of \$2.44. However, a supplement was submitted, showing the proceeding in the Probate Court of Athens county relative to the settlement of the estate of Elizabeth Davis, deceased, in which the premises were ordered sold. The court ordered that the premises be conveyed to the president and trustees of the Ohio University and that the mortgage of W. Leo Williams be satisfied out of the proceeds of said sale and be released of record. It was also ordered that the taxes for the year 1921 in the sum of \$95.68 be paid from the proceeds of sale. You have submitted a deed wherein Luella Grones, administratrix of the estate of Elizabeth Davis, deceased, conveys said premises to the president and trustees of Ohio University in pursuance to the order of said court, which in my opinion is properly executed. This will leave the premises free from liens, with the exception of the sum of \$2.44 due the University for rents, which perhaps is a lien.

Encumbrance Estimate No. 6426, above mentioned, contains the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in the sum of \$9,000.00 to cover the purchase of said premises.

There is being returned herewith the abstracts and supplements thereto, the deeds referred to, and the encumbrance estimate above mentioned. When the deeds have been properly recorded in Athens county, they should be filed, together with the abstracts, with the Auditor of State.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2795.

APPROVAL, BONDS OF MADISON TOWNSHIP RURAL SCHOOL DISTRICT, FAYETTE COUNTY, OHIO, IN AMOUNT OF \$75,000.

COLUMBUS, OHIO, January 16, 1922. .

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