

4817.

APPROVAL, BONDS OF FAIRVIEW VILLAGE SCHOOL DISTRICT,
CUYAHOGA COUNTY, OHIO—\$15,000.00.

COLUMBUS, OHIO, December 15, 1932.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

4818.

APPROVAL, BONDS OF CITY OF URBANA, CHAMPAIGN COUNTY,
OHIO—\$11,883.00.

COLUMBUS, OHIO, December 15, 1932.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

4819.

APPROVAL, CONDITIONALLY, ABSTRACT OF TITLE TO LAND OF
FRANK B. SUYDAM, IN NAPOLEON TOWNSHIP, HENRY COUNTY,
OHIO.

COLUMBUS, OHIO, December 15, 1932.

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

DEAR SIR:—This will acknowledge receipt of a warranty deed, encumbrance estimate and an abstract of title for my consideration, covering two parcels of real estate owned by Frank B. Suydam, situated in Napoleon Township, Henry County, Ohio, and being that part of the northeast fractional quarter of Section 27 in Township 5 North, Range 6 East, in said county, more particularly described as

Parcel No. 1—That portion of the fractional Northeast Quarter of Section Twenty-seven in Township Five North of Range Six East in Henry County, Ohio, lying between the center line of U. S. Highway No. 24 and the westerly property line of the Miami and Erie Canal, beginning at the point of intersection of the center lines of U. S. Highway No. 24 and the county highway which runs northwesterly through said Section Twenty-seven, thence North 38 degrees 16' East along the center line of U. S. Highway No. 24, ninety-seven and 9/10 feet to a point; thence South 74 degrees 47' East one hundred and ninety feet to the westerly canal property line; thence South 13 degrees 28' West along the said canal property line ninety and 2.10 feet to a point which marks the intersection of said canal property line and the center line produced of the aforementioned county highway; thence North 74 degrees 47' West along the center line of said county highway produced two hundred and thirty-two and 6/10 feet to the place of beginning and containing 44/100 acres of land, more or less.

Parcel No. 2—That portion of the fractional northeast quarter of said Section Twenty-seven lying between the easterly property line of the Miami and Erie Canal and the westerly low water line of the Maumee River, which is described as follows: Beginning at the point of intersection of the northerly line of said Section Twenty-seven and the easterly canal property line; thence South 15 degrees 28' west along said canal property five hundred and four and $\frac{2}{10}$ feet; thence South 71 degrees 57' East fifty feet more or less to the westerly low water mark of the said Maumee River; thence North 26 degrees 59' East along said Maumee River five hundred and forty-nine and $\frac{5}{10}$ feet to the said north line of said Section Twenty-seven; thence North 87 degrees 53' West along said section line one hundred and sixty-one feet more or less to the place of beginning and containing one and $\frac{21}{100}$ acres of land, more or less.

I desire to call your attention to two matters, neither of which I believe militates, at this time against Suydam's title:

(a) At page 19 of the abstract, it appears that by a deed executed in April, 1868, a 70.21 acre tract was carved out of the northeast fractional quarter of Section 27. The description starts at a point in the west line of the quarter and runs east to a point and then north to a point in the north section line. There is an absence of any reference to the north and west boundary lines of this 70 acre tract. However, I think by the references to the conveyance of 70.21 acres from that part of the northeast fractional quarter, it is clear that the grantor and grantee, in the deed referred to, intended the north and west section lines within the limits there used, to be the north and west boundary lines of the tract so conveyed.

All subsequent deeds for the 70 acre tract contained the same omission, down to a deed executed in September, 1895, abstract page 32, when, for the first time, the grantor uses the north and west lines of the quarter section as the north and west boundary lines of the tract. All deeds subsequent to that seem to be in proper form to the end that Frank B. Suydam acquired a good title to the 70 acre tract in April, 1912. From this 70 acre tract the two parcels here under investigation are carved.

(b) At page 57, a mechanics' lien for \$215.59 on the 70 acre tract is noted. The filing date of the instrument appears to be September 15, 1926, and covers an unpaid account for materials furnished in improving the Suydam land, the last of which material was furnished July 17, 1926. The abstract is devoid of any proceedings to enforce the lien or a release thereof.

Under the terms of Section 8321 of the General Code, a mechanics' lien shall continue for six (6) years after the filing date unless suit is brought to further establish the validity of the lien by foreclosure, etc. The six-year limitation has expired and unquestionably this affidavit has lost its lien character.

Notwithstanding the foregoing observation in respect of the title, I am of the opinion that Frank B. Suydam does have a good and merchantable title to the premises under investigation subject to the following encumbrances:

1. A mortgage by Frank B. Suydam and Ida Suydam, his wife, to the Napoleon State Bank, filed May 21, 1926, of record in M. R. 72, p. 429, to secure payment of the mortgagors' promissory note for \$3500.00.

However, accompanying the papers submitted to me is a properly executed release by the Napoleon State Bank releasing the two parcels under investigation from the lien of said mortgage. The release has not been filed for record; but when filed, it will constitute a good and sufficient release for the property being purchased by the State from Suydam.

2. The 1932 taxes were not determined at the date of the abstractor's certificate under date of December 6, 1932. However, they are unpaid and a lien.

3. Special assessments, now a lien against the real estate in the caption, have been stated by the abstractor as follows: "Intercounty Highway No. 316 installment for the year 1932, \$16". Whether this is the last installment or whether it is one of a series yet to be paid, the abstractor does not disclose. However, the Conservation Commissioners should have that point investigated further and be sure that all of this assessment is paid before the purchase transaction is completed.

Encumbrance Record No. 55 has been properly executed and approved and the same shows that there is a sufficient balance in the proper appropriation account to pay the purchase price of this property, which is stated to be the sum of \$275.00. It also appears that the money necessary to pay the purchase price has been released by the Control Board.

The deed which has been tendered has been properly executed by Frank B. Suydam and Ida Suydam, his wife, who releases her rights in the property by way of dower or otherwise, and the acknowledgment is in proper form. The grantor covenants that the title is clear, free and unencumbered, and that he will warrant and defend the same against all claims, and the form of the deed is such that when filed it will sufficiently convey the premises under consideration to the State of Ohio, free and clear from all claims whatsoever.

The documents first above enumerated, together with the release of the premises from the mortgage lien, are herewith returned.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4820.

APPROVAL, ABSTRACT OF TITLE TO LAND OF ALLEN P. STALTER,
IN NAPOLEON TOWNSHIP, HENRY COUNTY, OHIO.

COLUMBUS, OHIO, December 15, 1932.

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

DEAR SIR:—There has been submitted for my examination and approval an abstract of title, warranty deed and encumbrance record No. 54 relating to a certain tract of 3.34 acres of land in Napoleon Township, Henry County, Ohio, which tract is owned of record by Allen P. Stalter, and which is in the southern part of the northeast fractional quarter of Sec. 27 in Napoleon Township, Henry County, Ohio, more particularly described as follows: