

1600.

ABSTRACT, STATUS OF TITLE, 100 ACRES OF LAND, SITUATE IN ROSS COUNTY, OHIO.

COLUMBUS, OHIO, July 3, 1924.

HON. EDMUND SECREST, *State Forester, Ohio Agricultural Experiment Station, Wooster, Ohio.*

Dear Sir:—

An examination of an abstract of title and warranty deed, recently submitted by your department to this office for our examination and approval, discloses the following:

Your attention is first directed to the necessity of the proper certificate of the Director of Finance of the State of Ohio to the effect that there are unincumbered balances legally appropriated sufficient to cover the purchase price of the premises proposed to be purchased before the purchase can be consummated. This certificate should be procured from the Director of Finance and attached to the deed and abstract before same are presented to the State Auditor.

The abstract under consideration was prepared by Harry B. Grace, of Chillicothe, Ohio, Abstracter, his certificate thereto bearing date of the 28th day of March, 1924. The abstract pertains to the following premises:

“Situate in Franklin Township, Ross County, Ohio, to-wit:

Beginning at a white oak and west corner to Duncan McArthur's Surveys Nos. 10969 and 10725; thence south 39 degrees east 100 poles to a stake and passing two hickories and a white oak, one of the corners of said Duncan McArthur's survey at 40 poles; thence south 51 degrees west 160 poles to a hickory and dogwood; thence north 39 degrees west 100 poles to a chestnut and hickory, thence north 51 degrees east 160 poles to the place of beginning, containing 100 acres more or less, and being a part of Survey No. 14523.

Excepting therefrom the northeast half thereof conveyed by John Eblin and wife to Herbert Hartley by deed dated March 15, 1880, and recorded in volume 88, page 109, deed records of Ross County, Ohio.”

Upon examination of said abstract, I am of the opinion same shows a good and merchantable title to the premises under consideration in Grace V. Hughes, subject to the following:

At section 30 of the abstract, there appears an uncancelled mortgage in the sum of \$1,550.00 against the premises under consideration. This mortgage was given to secure the payment of three promissory notes, said notes being dated January 22, 1891. While this mortgage has not been regularly cancelled of record, the abstracter has supplied affidavits which appear at sections 30 and 31, which it is believed are sufficient to justify the belief that this mortgage is no longer an encumbrance upon the premises.

There appear also to be some minor irregularities and deficiencies in the early history of the title under consideration, but it is believed because of the long lapse of time, these may be disregarded.

The abstract discloses that the taxes for the year 1923 are paid, but the taxes for the year 1924, amount of which is as yet undetermined, are at this time a lien.

The abstract also discloses that no examination has been made of the files and records of any of the United States Courts or any office thereof concerning the title under consideration. However, it is suggested that if your department is satisfied

from other sources that the premises here under consideration have not been the subject of any litigation in the federal courts, this deficiency in the abstract may be disregarded.

An examination of the warranty deed as submitted by your department shows the same to be a regularly drawn warranty deed in proper form and properly executed by Grace V. Hughes, an unmarried person, which deed it is believed will be sufficient to convey a fee simple title to the State of Ohio when same is properly delivered.

The abstract and warranty deed submitted by your department to this office for examination are herewith returned.

Respectfully,
C. C. CRABBE,
Attorney General.

1601.

APPROVAL, FINAL RESOLUTIONS, ROAD IMPROVEMENTS IN THE FOLLOWING COUNTIES: WARREN, FAIRFIELD, MONROE AND JACKSON.

COLUMBUS, OHIO, July 3, 1924.

Department of Highways and Public Works, Division of Highways, Columbus, Ohio.

1602.

INTER COUNTY HIGHWAY—WHAT CONSTITUTES A PROCEEDING UNDER SECTION 26 G. C.—WHEN SUCH PROCEEDING IS PENDING.

COLUMBUS, ONIO, July 7, 1924.

SYLLABUS:

1. *The various steps before a board of county commissioners and the director of highways and public works, in connection with a state aid road improvement project under the provisions of Section 1191 of the General Code, and related sections, wherein it is sought to construct, improve, maintain or repair an inter-county highway, constitute a "proceeding" within the contemplation of Section 26 of the General Code.*

2. *Such a proceeding is pending, within the contemplation of said Section 26 of the General Code (a) when the owners of twenty-five per cent of the lineal feet abutting on the inter-county highway petition the county commissioners for its construction, improvement, maintenance or repair, under the provisions of the state aid road law; or (b) when the county commissioners, without the presentation of any petition, or the township trustees, under the conditions as set out in Section 1192 of the General Code, make application to the director of highways and public works for aid in the construction, improvement, maintenance or repair of an inter-county highway, under the provisions of said law.*