

"While it is true that no precise form of words is necessary or essential to create a condition subsequent, nevertheless, if in a deed, it must be created by such terms as to leave no doubt of the intentions of the grantor so to do.

"The language used by the grantors in the deed in the case at bar is clear, plain and unambiguous, and there is no doubt about its meaning, but, as we interpret and construe it, falls far short of being sufficient to create a condition subsequent.

"So far as creating limitations upon the title conveyed, it certainly does not do so. In legal effect it has no force, and the most that can be claimed for it is that it might be construed as a mere wish or desire on the part of the grantors to have the property used for the purposes indicated by the language; but in effect it is a mere suggestion, an unenforceable request or desire.

"An examination of the deed nowhere discloses any language that could be construed as intended to create any limitation upon the fee simple title in the grantees, their heirs and assigns, and we find no reservations or limitations contained in said deed.

"It is generally known that, when an estate granted is intended to be terminated or forfeited, certain terms are used in the granting clause, or somewhere in the deed, declaring that the estate conveyed is to be forfeited 'in the event that' certain conditions are not complied with. But in the deed now before us there is an utter absence of any such provisions."

In further consideration of the second question involved in your inquiry, I note you have already made reference to an opinion of this office found in Opinions of the Attorney General for 1920, Vol 2, p. 1206, and in view of the discussion in that opinion of a somewhat similar question, and the authorities cited above, I am of the opinion that the deed you submit conveys a fee simple estate and that the words in the habendum clause of the deed, to-wit, "unto said board of education so long as they want the same for a school house site to them and their own proper use and behoof", do not create a condition subsequent, but are at most descriptive of a suggestive use for which the land was granted; and that the board of education can sell the buildings and grounds, and convey a good and sufficient fee simple title and use the proceeds received from said sale for school purposes.

Respectfully,
C. C. CRABBE,
Attorney General.

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APPROVAL, BONDS OF VILLAGE OF EUCLID, CUYAHOGA COUNTY
\$5,200, FOR CONSTRUCTION OF SEWER AND WATER CURB CON-
NECTIONS IN MONTEREY ROAD.

COLUMBUS, OHIO, March 21, 1923.

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