

Highway No. 694 located on Lorain Avenue in the City of Cleveland, Cuyahoga County, Ohio.

After examination, it is my opinion that said proposed agreement is in proper legal form and when the same is properly executed it will constitute a valid and binding contract.

Said proposed contract is being returned herewith.

Respectfully,

JOHN W. BRICKER,
Attorney General.

6635.

DISAPPROVAL—GRANT OF EASEMENT TO LAND IN PLAIN TOWNSHIP, FRANKLIN COUNTY, OHIO.

COLUMBUS, OHIO, January 8, 1937.

HON. L. WOODDELL, *Conservation Commissioner, Columbus, Ohio.*

DEAR SIR: You have submitted for my examination and approval a certain grant of easement, No. 265, conveying to the State of Ohio for the purposes cited therein, a certain tract of land in Plain Township, Franklin County, Ohio.

Upon examination of the above instrument, I find that the signature of only Luella Geiger appears thereon, while it appears that the lands in question are owned by George C. and Luella Geiger.

For this reason I am returning the same to you without my approval endorsed thereon.

Respectfully,

JOHN W. BRICKER,
Attorney General.

6636.

APPROVAL—LEASE TO LAND IN GRAND RAPIDS TOWNSHIP, WOOD COUNTY, OHIO—WOOD COUNTY PARK BOARD.

COLUMBUS, OHIO, January 9, 1937.

HON. L. WOODDELL, *Conservation Commissioner, Columbus, Ohio.*

DEAR SIR: You have submitted for my examination and approval a certain lease in triplicate executed by you as Conservation Commissioner pursuant to the authority and direction of the Conservation Council, to the

Wood County Park Board, the office of which is at Bowling Green, Ohio. By this lease, which is one for a term of two years, there is leased and demised to the lessee above named two certain tracts of land known as the Mary Jane Thurston Park lands and containing respectively 14.05 and 12 acres of land in the northwest quarter of section 7, town 5 north, range 9 east, Grand Rapids Township, Wood County, Ohio. By this lease instrument the tracts of land above referred to, which are more particularly described therein by metes and bounds, are leased and demised to the Wood County Park Board for park and recreational purposes for the term above stated.

This lease is one executed by and under the authority of the Conservation Council of the Division of Conservation under the general power and authority with respect to state lands conferred upon the Conservation Council by section 472, General Code, and under the more particular authority conferred upon the Conservation Council by section 472-1, General Code, which in effect provides that the Conservation Council shall exercise all powers and duties formerly conferred by law upon the Superintendent of Public Works with respect to the control, management, lease and sale of swamp, marsh, overflow lands and all other lands within the state to which the state has or should have title, except canals and public works and institutional lands, and that such Conservation Council may lease such lands under its jurisdiction with the written approval of the Governor and the Attorney General. I am inclined to the view, therefore, that the Conservation Council is authorized to execute the lease here in question if it be determined that the Wood County Park Board, the lessee named in this instrument, has authority to accept the lease.

Although it is not so stated in this instrument by way of recital or otherwise, I assume that the Wood County Park Board is a metropolitan park district organized and existing under the provisions of sections 2976-1, et seq., General Code. Section 2976-7, General Code, provides that the board of commissioners of a park district of this kind shall have power to acquire lands either within or without the park district for parks and other related purposes. There is nothing in the provisions of this section or in any other section of the metropolitan park district law which in terms authorizes a park district of this kind to acquire lands for park and other purposes by lease. However, I think this authority is clearly implied from the further provisions of section 2976-7, General Code, which are as follows:

“In case of appropriation, the proceedings shall be instituted in the name of the board, and shall be conducted in the manner provided for the appropriation of private property by municipal corporations insofar as such proceedings are applicable. Either

the fee or any lesser interest may be acquired as the board may deem advisable and the provisions of this section shall apply to districts heretofore created."

The authority conferred upon the board of park commissioners by the above quoted provisions to acquire a fee or any lesser interest in lands evidently refers to the acquisition of such lands by purchase as well as by appropriation. Moreover, the fact that such board of park commissioners is authorized to acquire the fee or any lesser interest in land by appropriation clearly implies the authority of the park commissioners to acquire such interests in land by purchase or other conventional arrangement. And since a leasehold interest for a term of years is clearly a "lesser estate" as this term is used in the above quoted provisions of section 2976-7, General Code, it follows that the board of commissioners of the park district is authorized to take a lease of the kind here in question. I am accordingly of the opinion that not only is the Conservation Council authorized to execute the lease here in question but that the Wood County Park district is authorized to accept the same by appropriate action of the Board of Commissioners of the district.

In this connection, another matter should, perhaps, be noted. The several tracts of land covered by this lease were acquired by the Conservation Council in the name of the state of Ohio for park purposes and under the provisions of section 472, General Code, the Conservation Council is charged with certain duties and responsibilities in maintaining these lands for park purposes under the general powers conferred upon the Council by this section. In this situation, this office would not, perhaps, be authorized to approve a lease of park lands thus held by the Conservation Council if the term of such lease was such as to indicate an abdication by the Conservation Council of its duties and responsibilities with respect to the maintenance of such lands for park purposes. In this connection, I am advised that one of the purposes which the Conservation Council has in mind in executing the lease here in question is that thereby desired improvements will be made upon these lands by the Wood County Park District which the Conservation Council for lack of means will not be able to construct. In this view and by reason of the short term of the lease, I am of the view that the lease can be approved so far as this consideration is concerned.

Upon examination of the lease, I find that the same has been properly executed by you in the name of the state of Ohio, acting for and on behalf of the Conservation Council pursuant to the authority and direction of a resolution duly adopted for the purpose by the Conservation Council, and by the Wood County Park Board, acting by the hand of its Secretary pursuant to the authority of a resolution duly adopted by the commis-

sioners of said park board district. I further find, upon examination of the lease and of the conditions and restrictions therein contained, that the same are in conformity with the statutory provisions relating to leases of state lands. I am accordingly approving this lease as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned to you.

Respectfully,

JOHN W. BRICKER,
Attorney General.

6637.

APPROVAL—BONDS OF WALBRIDGE VILLAGE SCHOOL DISTRICT, WOOD COUNTY, OHIO, \$28,000.00

COLUMBUS, OHIO, January 9, 1937.

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

6638.

INHERITANCE TAXES—TAXPAYER NOT ENTITLED TO DISCOUNT UNDER PROVISIONS OF SECTION 5338—INTEREST CHARGEABLE WHEN.

SYLLABUS:

Under the provisions of section 5338, General Code, relating to the payment of inheritance taxes, the taxpayer is not entitled to the benefit of the discount provided for by this section unless the whole amount of the tax on the succession is paid at least one full month before the expiration of the period of one year from the date of the accrual of the tax, and no discount can be allowed upon partial payments as such. If the whole amount of the tax is not paid before the expiration of the period of one year from the date of the accrual of the tax, interest will be chargeable upon the whole amount of the tax at the rate prescribed by this section of the General Code.

COLUMBUS, OHIO, January 11, 1937.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN: Sometime ago you addressed a communication to me in which you called my attention to Section 5338, General Code, providing