

In view of the above and in specific answer to your question, it is my opinion that the probate judge in question may release the mortgage, thereby releasing payment of the fine and of the costs.

Respectfully,
JOHN W. BRICKER,
Attorney General.

3403.

APPROVAL—ABSTRACT OF TITLE, WARRANTY DEED, ENCUMBRANCE RECORD NO. 4 AND CONTROLLING BOARD CERTIFICATE RELATING TO THREE TRACTS OF LAND IN HANOVER TOWNSHIP, ASHLAND COUNTY, OHIO—SUSIE RAUB.

COLUMBUS, OHIO, November 5, 1934.

HON. CARL E. STEEB, *Secretary, Board of Control, Ohio Agricultural Experiment Station, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination and approval an abstract of title, warranty deed, encumbrance record No. 4 and Controlling Board certificate relating to three tracts of land owned of record by one Susie Raub in Hanover Township, Ashland County, Ohio, which tracts of land are more particularly described as follows:

Being a part of the northwest quarter of the northeast quarter of section number eighteen (18), township nineteen (19), range sixteen (16) and beginning at the southwest corner of said lot; thence east on the south line 80 rods to the southeast corner; thence north on the east line 40 rods to a stake; thence west $66 \frac{2}{3}$ rods to a stake; thence south 18 rods to a stake; thence west $13 \frac{1}{3}$ rods to the west line of said quarter section; thence south 22 rods along the west line of said quarter section to the place of beginning, containing $18 \frac{1}{2}$ acres of land.

Also a part of the northeast quarter of section eighteen (18), township nineteen (19), range sixteen (16) commencing at the northwest corner of said quarter; thence east 80 rods to a stake; thence south 40 rods to a stake; thence west $66 \frac{1}{2}$ rods to a stake; thence south 18 rods to a stake; thence west $13 \frac{1}{2}$ rods to a stake; thence north 58 rods to the place of beginning. Excepting therefrom 12 acres off of the west end of said premises, the balance to contain nine and ninety hundredths acres (9.90). And in both tracts 29.11 (twenty-nine and eleven hundredths acres).

Also land situated in said Township of Hanover, County of Ashland, and State of Ohio, and known as the south half of the southeast quarter of section seven (7), township nineteen (19) and range sixteen (16) containing eighty acres more or less.

Upon examination of this abstract of title, which at my request has been corrected by further information showing the release of a judgment in the sum of \$401.63 and accrued costs obtained by the LaRue Bank Company against Susie

Raub, shown at page 60 of the abstract, I find that said Susie Raub has a good merchantable fee simple title to the above described tracts of land, free and clear of all encumbrances except the taxes thereon for the last half of the year 1933, the amount of which is not stated in the abstract, and except the undetermined taxes on the property for the year 1934. In this connection, it is noted that in the warranty deed which Susie Raub has tendered to the State of Ohio there is a recital that the taxes for the last half of the year 1933, which were due and payable in June, 1934, are to be paid by Susie Raub, the grantor, and that the State of Ohio, the grantee, is to pay the taxes for the year 1934, the first installment of which becomes due and payable in December, 1934. If this recital in the deed is a correct statement of the contract existing by and between Susie Raub and the State of Ohio, represented by the Ohio Agricultural Experiment Station, with respect to the purchase of this property, some provision should be made for the payment by Susie Raub of the installment of the 1933 taxes on the property which became due and payable in June, 1934, before the transaction is closed for the purchase of this property by the delivery of the warrant covering the purchase price of the property. And, likewise, some provision should be made for the payment or cancellation of the 1934 taxes on the property.

Upon examination of the deed tendered by Susie Raub, I find that the same has been properly executed and acknowledged by her as the grantor in this deed. I further find that the form of this deed is such that the same is legally sufficient to convey this property to the State of Ohio by full fee simple title, free and clear of all encumbrances except, as is above noted, the lien of the undetermined taxes for the year 1934.

I have examined contract encumbrance record No. 4, which has been submitted as a part of the files relating to the purchase of this property, and I find that the same has been properly executed and that there is shown thereby a sufficient unencumbered balance in the proper appropriation account to pay the purchase price of this property, which purchase price is the sum of one thousand dollars.

I further find from a recital in said contract encumbrance record, as well as from the Controlling Board certificate submitted to me, that the purchase of the above described property has been approved by the Controlling Board and that said Board has released from the appropriation account the money necessary to pay the purchase price of this property.

I am herewith returning said abstract of title, warranty deed and contract encumbrance record No. 4, relating to the purchase of this property to the end that a proper voucher may be issued by your department covering the purchase price of the property above described. I am retaining the Controlling Board certificate relating to the purchase of this property for use in connection with other files to be submitted to me later relating to the purchase of other property contiguous to property now owned by the state and which forms a part of Clear Fork Park.

Respectfully,

JOHN W. BRICKER,

Attorney General.