

of the Department of Public Welfare, Support Department, certain space in the Rowlands Building at Broad and Third Streets, Columbus, Ohio, for office purposes.

An examination of the lease submitted shows that said lease has been corrected with respect to the matters pointed out in former Opinion No. 2078 of this office, which caused the lease to be disapproved upon first submission to this office. Said lease is, therefore, accordingly approved as to legality and form. I am returning to you all the papers submitted in connection with said lease.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2108.

APPROVAL, ABSTRACT OF TITLE, WARRANTY DEED AND ENCUMBRANCE ESTIMATE RELATING TO PROPOSED PURCHASE BY STATE OF OHIO OF LAND OF J. WILEY WEST, IN MARIETTA TOWNSHIP, WASHINGTON COUNTY, OHIO.

COLUMBUS, OHIO, July 19, 1930.

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

DEAR SIR:—You have submitted for my examination and approval an abstract of title, warranty deed, encumbrance estimate No. 138 and controlling board certificate, relating to the proposed purchase by the State of Ohio of a tract of land owned of record by one J. Wiley West, in Marietta Township, Washington County, Ohio, which tract of land is more particularly described as follows:

“Being a part of Section 8, Town 2, Range 8, of the Ohio Company’s Purchase, and bounded and described as follows, to-wit: Beginning at an iron pipe at the southwest corner of the land conveyed by J. Wiley West and wife to the State of Ohio, by deed recorded in volume 197, at page 61; thence south 87 deg. 51’ west 5.23 chains to the center of State Highway No. 7, where an iron pipe bears north 87 deg. 51’ east 0.495 chains; thence south 25 deg. 51’ east along the center of said Highway 9.23 chains to a point 15 feet north of the south line of the lands of said J. Wiley West, where an iron bears north 89 deg. 43’ east 0.505 chains; thence north 89 deg. 43’ east parallel to and 15 feet north of said south line, 28.73 chains to an iron pipe; thence north 14 deg. 10’ west 8.56 chains to an iron pipe; thence north 89 deg. 50’ west 1.28 chains to an iron pipe at the southeast corner of the tract conveyed by said deed recorded in volume 197, page 61 of said deed records; thence north 89 deg. 50’ west along the south line of the above mentioned tract 24.17 chains to the place of beginning. Containing 25 acres.”

Upon examination of the abstract of title submitted, which was certified by the abstractors under date of July 3, 1930, I find that said J. Wiley West has a good and indefeasible fee simple title to the above described property, subject to the mortgage interest of his wife, Annie I. West, and subject to taxes on said property for the last half of the year 1929, amounting to one hundred twenty-seven dollars and forty-two cents (\$127.42), and the undetermined taxes for the year 1930.

In addition to the lien of the taxes on said property, above noted, I note that this property is subject to the incumbrance of several oil and gas and pipe line leases. From the abstract it appears that prior to the year 1917 said J. Wiley West and Adaline V. West, his mother who was then living and had an interest in this and other property, executed a number of oil and gas leases on such property. These leases, however, appear to have been either surrendered by the respective lessees therein named, or have terminated by expiration of time, and no further notice need be taken of such leases. On February 28, 1917, said J. Wiley West and wife executed to Shankland Brothers an oil and gas lease on 100 acres of land in Marietta Township, Washington County, Ohio, which tract of land, I assume, included the premises here under investigation. This lease was for a period of one year and as much longer as oil and gas is found in paying quantities or the rental thereon paid. It appears that five wells have been drilled under this lease and that some or all of said wells are still producing oil in limited quantities. Under this statement of facts I presume that said lease is still in operation and effect as an incumbrance on this property.

Besides the oil and gas lease, above mentioned, there appears to be a number of outstanding easements against this property for pipe line, telephone line and telegraph line rights of way. On June 28, 1909, said J. Wiley West and Adaline V. West executed and delivered to the Crescent Producing Company a deed or like instrument in writing by which there was granted to said company a pipe line, telephone line and telegraph line right of way along the Marietta and Newport road, which easement properly affects the property here under investigation.

Likewise it is noted that under date of March 1, 1913, Adaline V. West and J. Wiley West executed to the National Pipe Line Company an instrument in writing by which there was granted to the National Pipe Line Company a right of way 41 rods long for a 2 inch oil line over the premises above described, together with the privilege of laying additional lines upon payment of the nominal consideration therein provided. This easement is an incumbrance upon the property.

On February 28, 1919, Adaline V. West executed and delivered to the Buckeye Pipe Line Company an instrument in writing granting to said company the right to lay a pipe line in and upon the property here under consideration, and likewise to lay additional pipe lines thereon. This instrument appears to have been signed by said J. Wiley West but not acknowledged by him. Under all circumstances it is very doubtful whether this instrument has any effect as an incumbrance against the property of said J. Wiley West. Moreover, it appears that none of the lines of pipe laid down under the authority of this instrument is in or upon the 25 acre tract here under investigation.

On June 22, 1929, said J. Wiley West and his wife, by an instrument in writing, granted to the Kanawha Traction and Electric Company a right of way for an electric distribution and telephone system to be constructed along the route of state highway no. 7, the poles carrying the wires of such system to be located not more than 40 feet from the center of the road, with the right in the grantee to trim trees interfering with the maintenance and operation of the system. It appears also that the Ohio Bell Telephone Company has a telephone right of way easement in and along state highway no. 7, but the details with respect to such easement are not stated in the abstract.

How far said oil and gas and pipe line and other easements, above noted, will affect the use which your department desires to make of this property is a matter for your own determination.

Said J. Wiley West and Annie I. West, his wife, tendered to the State of Ohio a warranty deed conveying to the state the property above described. Upon examination of said deed, I find that the same has been properly-executed and acknowl-

edged by said persons and that as to its form said deed is sufficient to convey said above described property to the State of Ohio in fee simple, free and clear of the dower interest of said Annie I. West and free and clear of all incumbrances whatsoever, save the exceptions stated in the warranty clause of said deed as follows:

“Save and except the oil and gas lease thereon and the pipe line rights of way thereover and said premises are so conveyed subject thereto and to State Highway No. 7, and the rights of way of the Kanawha Traction and Electric Company, The Crescent Producing Company and The Ohio Bell Telephone Company along, over and near said highway.”

Encumbrance estimate No. 138, relating to the purchase of the above described property, has been properly executed and approved and the same shows sufficient balances in the proper appropriation account to pay the purchase price of this property, which is the sum of eight thousand seven hundred and fifty dollars (\$8,750.00).

It likewise appears that the board of control, acting under the provisions of Section 11 of House Bill No. 510, has released from the appropriation account sufficient moneys to pay the purchase price of this property.

I am herewith returning to you with my approval, subject to the exceptions above noted, the abstract of title to this property, as well as said warranty deed, encumbrance estimate No. 138, the controlling board certificate and other files submitted by you relating to the purchase of this property.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2109.

MUNICIPAL COURT—AKRON—DEDUCTION OF ALLOWANCE OF COUNTY COMMISSIONERS TO JUDGES, CLERK AND PROSECUTING ATTORNEY NECESSARY BEFORE FINES ARE TURNED OVER TO LAW LIBRARY ASSOCIATION—EXCEPTION.

SYLLABUS:

In view of the provisions of Sections 1579-501 and 3056 of the General Code it is necessary to deduct the total amount of the allowance to all of the judges, clerk and prosecuting attorney in determining the amount to be distributed to the Law Library Association, excepting the minimum of fifteen per cent (15%) which is to be distributed to the Library Association without making such deduction. The character of the cases being tried by such judges has no bearing upon the question.

COLUMBUS, OHIO, July 19, 1930.

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

GENTLEMEN:—Acknowledgment is made of your recent communication which reads:

“Section 1579-501, G. C., Akron Municipal Court Act, as amended 113 O. L., page 67, reads:

‘The court shall consist of five judges, all of whom shall be qualified electors and residents of the city of Akron, and shall have been admitted to