

6014.

APPROVAL—FINDINGS FOR CANCELLATION OF TWO CERTAIN LEASES OF O. & E. CANAL LANDS AT CANAL FULTON, OHIO—CANAL FULTON LAKE IMPROVEMENT COMPANY.

COLUMBUS, OHIO, August 28, 1936.

HON. CARL G. WAHL, *Director, Department of Public Works, Columbus, Ohio.*

DEAR SIR: On or about June 2, 1936,, or a short time prior thereto, you submitted for my examination and approval certain findings of your department directing the cancellation of two certain leases of Ohio and Erie Canal lands executed to the Canal Fulton Lake Improvement Company, under dates of April 22, 1925, and October 9, 1935, respectively, and bearing serial numbers O & E 29 and O & E 30. By one of these leases there was leased and demised to the lessee above named, a parcel of 1.10 acres of Ohio Canal Lands at Canal Fulton, for park purposes, and by the other lease above referred to, said lessee was given the right to connect the waters of Nimishiling Creek with the canal feeder known as the Fulton Feeder near Station 891 of G. F. Silliman's survey of the Ohio Canal, by the construction of a reinforced concrete bulkhead and by the construction of such other works as were necessary to effect this purpose.

The several applications for the cancellation of these leases were made under the provisions of Sections 6 and 7, of House Bill No. 467 (115 O. L., 512), and in each application the only reason assigned for the requested cancellation was that there had been no use made of the premises leased for four or five years. There is nothing in the act of the legislature above referred to, or in Sections 6 and 7 of the act, which relate particularly to the cancellation of leases, which authorizes the Superintendent of Public Works to cancel a lease solely for the reason that the lessee has not seen fit to make use of the property covered by the lease or of the rights granted to him under the terms of the lease instrument. For the reasons above noted, the finding made by your department permitting the cancellation of these leases was disapproved by me in an opinion directed to you under date of June 2, 1936.

I have recently been advised by representatives of your office who are familiar with the facts, that the primary reason why the lessee named in these leases did not make use of the canal lands leased to it, and otherwise avail itself of the rights conferred upon it by these lease instruments was and is that by reason of extreme financial difficulties the company was not able to carry out the purposes which it contemplated at the

time of the execution of these leases. It appears further that thereafter, and some time during the year 1935, the Village of Canal Fulton, by authority of the then Superintendent of Public Works, was given the right to use a part of the canal lands covered by these leases in connection with a public improvement carried out by the village, with the aid of federal funds.

In the light of these additional facts, no reason is seen why the cancellation of these respective leases directed by your department should not be approved provided, of course, the lessee complies with the provisions of the act of the legislature above referred to, by paying to the state all rentals that have accrued under these leases.

I am accordingly approving the findings made by your department with respect to the cancellation of these leases, as is evidenced by my approval endorsed upon the resolution and copies thereof, which are attached to and made a part of the files relating to the cancellation of the leases. These resolutions and copies thereof, together with the other files, are herewith returned.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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6015.

APPROVAL—BONDS OF CITY OF COLUMBUS, FRANKLIN  
COUNTY, OHIO. \$4,000.00

COLUMBUS, OHIO, August 28, 1936.

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

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6016.

APPROVAL—SIX LEASES TO LAND IN ALLEN TOWNSHIP,  
OTTAWA COUNTY, OHIO.

COLUMBUS, OHIO, August 28, 1936.

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

DEAR SIR: You have submitted for my examination and approval certain leases executed to the State of Ohio by several property owners