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APPROVAL—ABSTRACT OF TITLE AND OTHER INSTRUMENTS, STATE OF OHIO, THROUGH HON. CARL E. STEEB, BUSINESS MANAGER, OHIO STATE UNIVERSITY, COLUMBUS, OHIO, CERTAIN DESCRIBED PARCELS OF LAND, OWNED OF RECORD BY CHARLES W. SOMERS, TO BE CONVEYED TO STATE OF OHIO, LOCATED IN PUT-IN-BAY TOWNSHIP, OTTAWA COUNTY, OHIO.

COLUMBUS, OHIO, October 24, 1938.

HON. CARL E. STEEB, *Business Manager, Ohio State University, Columbus, Ohio.*

DEAR SIR: A few days ago Mr. T. H. Langlois who, I understand, is on the staff of Ohio State University, delivered to me for examination and approval an abstract of title and executors' deed relating to certain lots and parcels of land which were owned of record by one Charles W. Somers at the time of his death on June 29, 1934, and which are to be conveyed to the State of Ohio by means of the executors' deed above referred to, which deed has been executed and acknowledged in the manner provided by law by Fred E. Baehr, D. Somers Clarke and George E. Frey, the duly appointed, qualified and acting executors under the will and codicils of said Charles W. Somers, deceased. The property here in question is described in said abstract of title and executor's deed as follows:

Situated in the Township of Put-in-Bay, County of Ottawa and State of Ohio, and known as Dwelling Lots Nos. 28, 29 and 30, in Schiele and Holloway's Peach Point Subdivision on South Bass Island, Ottawa County, Ohio, as recorded in Plat Book No. 4, Page 19 of Ottawa County Records.

Upon examination of the abstract of title submitted to me, which abstract in the last continuation thereof is certified by the abstracter under date of October 17, 1938, I find that at the time of the death of said Charles W. Somers he owned and held an indefeasible fee simple title to the above described lots and parcels of land free and clear of all encumbrances except the then current taxes on the property, but subject to certain restrictions affecting the use of Lot No. 28 in Schiele and Holloway's Peach Point Subdivision, above described, which restriction contained in the deed executed by one Lisette R. Miller conveying said lot to one William H. White in the chain of title by which Charles W. Somers acquired this lot, is stated in said deed as follows:

“Said premises shall be used by said grantee, his heirs or assigns, for residence purposes only, and no mercantile business of any character or kind whatsoever shall at any time be transacted upon said premises, nor shall the same be used for manufacture or traffic of intoxicating liquors.”

The deed above referred to, which has been executed and acknowledged by the executors of the estate of said Charles W. Somers for the purpose of conveying the above described lots and parcels of land to the State of Ohio, was so executed pursuant to authority conferred upon such executors by the last will and testament of Charles W. Somers and pursuant to the later and more specific authority conferred upon such executors by an order of the Probate Court of Ottawa County duly made and entered under date of October 15, 1938.

I am of the opinion, upon consideration of said abstract of title and executors' deed above referred to, that upon the delivery of this deed and its acceptance by the Board of Trustees of Ohio State University or by yourself, the authorized representative of said Board, the State of Ohio will own and hold an indefeasible fee simple title to the above described property and that it will own and hold this property free and clear of all encumbrances except the undetermined taxes on the property for the year 1938, the restriction with respect to the use of Lot 28, above referred to, not applying to the State. See *Dean vs. Cleveland Short Line Railway Company*, 92 O. S., 461.

Pursuant to the authority conferred upon them by the last will and testament of Charles W. Somers and by the order of the Probate Court of Ottawa County, above mentioned, the executors are selling to the State of Ohio all of the tangible personal property belonging to the estate of said Charles W. Somers which is located in and upon the above described premises. The sale and transfer of this tangible personal property, which is not enumerated or more particularly described, is effected by a bill of sale which has been executed in proper form by said executors for this purpose.

It appears from the order of the Probate Court of Putnam County above referred to, but not otherwise in the files submitted to me, that the above described real property and the tangible personal property thereon located are to be conveyed to the State of Ohio in consideration of the sum of \$6,000.00 to be paid to said executors. As to the State of Ohio, however, the sale, conveyance and transfer of this real and personal property is by way of gift or donation; and for this reason no contract encumbrance record was or is necessary and, of course, in this situation, no approval of the Controlling Board to the acquisition of this property by the State of Ohio is required.

I am approving the title to said lands and premises above described, subject only to the exception above noted with respect to the undetermined taxes on the property for the year 1938; and I am likewise approving said executors' deed and the bill of sale executed by them, all of which files are herewith enclosed for your further attention in the acquisition of the real and personal property above described and referred to.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

3134.

APPROVAL—LEASE, STATE OF OHIO, THROUGH SUPERINTENDENT OF PUBLIC WORKS, WITH THE QUAKER OATS COMPANY, AKRON, OHIO, TERM TEN YEARS, ANNUAL RENTAL \$150.00, RIGHT TO DRAW FROM OHIO AND ERIE CANAL, NEXT ABOVE LOCK No. 6, WATER AS STIPULATED.

COLUMBUS, OHIO, October 24, 1938.

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

DEAR SIR: You have submitted for my examination and approval a certain lease in triplicate executed by you as Superintendent of Public Works, for and in the name of the State of Ohio, to The Quaker Oats Company of Akron, Ohio.

By this lease instrument, which is for a term of ten years from November 1, 1938, and which provides for an annual rental of \$150.00, there is granted to the lessee above named the right to insert into the level of the Ohio and Erie Canal next above Lock No. 6, north of Portage Summit Lake Level in Akron, Ohio, a sixteen-inch pipe for the purpose of drawing so much of the water introduced into said level for the lockage of boats and hydraulic purposes and which is not already leased for manufacturing purposes, as will flow through said sixteen-inch pipe. This grant, however, is subject to the further provision that such lessee for the annual rental to be paid by it in the amount above stated shall take water from said level during an aggregate period of not to exceed fifteen days in any one year, any excess days or parts thereof to be paid for at the rate of ten dollars per day.

This lease is one executed by you under the authority of Sections 431 and 14009, General Code; and the provisions of this lease and the con-