

by a sufficient unencumbered balance in the land rents appropriation account to the credit of Miami University to pay the purchase price of this property, which purchase price is the sum of \$5,000.00.

Conformable to your request, I am forwarding this opinion, together with the abstract of title and contract encumbrance record, to the Auditor of State for such further attention as may be necessary in closing the transaction for the purchase of this property. However, I am directing to you a copy of this opinion, together with the administrator's deed, above referred to, which you will have him correct in the manner as above indicated.

Respectfully,

HERBERT S. DUFFY,

*Attorney General.*

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2878.

APPROVAL—CONTRACT PRESIDENT AND TRUSTEES, MIAMI UNIVERSITY WITH NERVA BRADY NEE MINERVA MANUEL, OUTLET 32, VILLAGE OF OXFORD, BUTLER COUNTY, OHIO, \$500.00.

COLUMBUS, OHIO, August 26, 1938.

HON. W. P. ROUDEBUSH, *Secretary, Board of Trustees, Miami University, Oxford Ohio.*

DEAR SIR: You have submitted for my examination an abstract of title, warranty deed, contract encumbrance record No. 1665, relating to a parcel of land owned of record by one Nerva Brady by name and who is, apparently, the same person hereinafter referred to as Minerva Manuel. The property here under investigation is described as follows:

Situate in the Village of Oxford, County of Butler, and State of Ohio, and being a part of Outlot numbered thirty-two (32) as the same is designated on the recorded plat of said Village, bounded and described as follows: Beginning at the southwest corner of said Outlot; thence north with the west line thereof, seventy-four (74) feet; thence east parallel with the south line of said Outlot, one hundred and sixty-five (165) feet; thence south at right angles, seventy-four (74) feet to the south line of said Outlot; thence west with said south line, one hundred and sixty-five (165) feet to the place of beginning; the above

premises being subject to an annual ground rent of \$1.00 payable to the Treasurer of Miami University on January 6th every year.

Upon examination of this abstract of title, which I have examined in connection with that submitted to me relating to the balance of said Outlet No. 32 which was lately sold to the President and Trustees of Miami University by the administrator of the estate of Anna Burton, deceased, I find that said Nerva Brady, otherwise known as Minerva Manuel, has a good and indefeasible perpetual leasehold interest in the above described property subject only to the lien of taxes for the last half of the year 1937 in the amount of \$15.55 which were due and payable in June, 1938, and to the undetermined taxes on the property for the year 1938. In addition to the taxes here referred to, this property is subject to ground rent in the sum of \$1.00 which is due and payable to the Treasurer of Miami University, on January 6 of each and every succeeding year. As to this, it appears that the ground rent on this property which became due and payable on January 6, 1937, and on January 6, 1938, has not been paid; and that the amount of such ground rent, together with interest thereon, now due and payable is the sum of \$2.12. It is, perhaps, needless for me to say that ground rents which are due and payable on this and all other properties purchased by the President and Trustees of Miami University should be adjusted and paid before the transaction for the purchase of the particular property is closed by the issue of voucher and warrant covering the purchase price of the same, or such ground rent should be adjusted and paid at the time of the transaction for the purchase of the property and as a part of such transaction. The same observation is made with respect to the taxes on this property above referred to and some adjustment with respect to such taxes should be made before this property is conveyed to the President and Trustees of Miami University.

The warranty deed, which has been tendered to the President and Trustees of Miami University for the purpose of conveying the above described property to said corporation, has been executed by the grantor therein and by Minerva Manuel. Assuming that Minerva Manuel is one and the same person referred to in the abstract of title as Nerva Brady (of which fact strict truth should be required by the affidavit of some competent person having knowledge of the fact), I find that said deed has been properly executed and acknowledged and that the form of this deed is such as to convey to the President and Trustees of Miami University, as a body corporate, all of the right, title and interest which Minerva Manuel, formerly known as Nerva Brady, owns and holds in said land and the appurtenances thereunto belonging; and that upon the

delivery and acceptance of this deed the President and Trustees of Miami University as a body corporate will own and hold the fee simple title in and to the parcel of land above described.

In this connection, it is noted that in and by this deed it is recited that the above described parcel of land, part of Outlot No. 32, "is subject to a right to an alley or driveway eight (8) feet wide along the whole of the south side of the above described part of Outlot thirty-two (32) reserved to the grantors of the grantor herein in a deed recorded in Deed Book 209, Page 512, of the records of the Butler County, Ohio Recorder." The reservation here referred to is one made in the deed executed by Reuben Burton and wife under date of April 3, 1918, conveying the above described property to Nerva Brady; and such reservation was made apparently for the benefit of said Reuben Burton in his use of the remainder of said Outlot No. 32, the title to which he retained. Inasmuch, however, as the President and Trustees of Miami University by this deed and by that executed to it by the administrator of the estate of Anna Burton, deceased, will obtain title to all of said Outlot No. 32, the easement reserved in the deed from Reuben Burton to Nerva Brady and referred to in the deed executed by her under the name of Minerva Manuel to the President and Trustees of Miami University, becomes of little or no importance as an encumbrance upon this property.

Upon examination of contract encumbrance record No. 1665, which has been submitted as a part of the files relating to the purchase of this property, I find that the same is properly executed and that there is shown thereby a sufficient unencumbered balance in the appropriation of land rents standing to the credit of Miami University to pay the purchase price of this property, which purchase price is the sum of \$500.00.

I am forwarding this opinion, together with the abstract of title, warranty deed and contract encumbrance record, to the Auditor of State for such further attention as may be required in closing the transaction for the purchase of this property. However, pursuant to your request I am forwarding to you a copy of this opinion.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*