

with the said easterly line of said canal property sixty (60') feet, more or less, to the northerly line produced of the said Lot No. 28, and the easterly line of said canal property; thence southerly with the said easterly line of said canal property sixty (60') feet, more or less, to the place of beginning and containing twelve hundred (1200) square feet, more or less.

There is no statement in the lease with respect to the statutory authority under which the same is executed, other than the general provisions of section 13965, et seq., General Code, therein referred to. However, I assume that this lease is one executed by you under the more particular authority of section 19 of Amended Substitute Senate Bill No. 194, known as the DeArmond Act, enacted by the 89th General Assembly under date of April 29, 1931. In this view and giving effect to this section of the DeArmond Act, I am required to further assume that no part of the canal lands covered by this lease have been designated by the Director of Highways as necessary for state highway construction or improvement and that no application has been made by the city of Delphos for the lease of this property or any part thereof for public park purposes under the provisions of this act or of the Farnsworth Act, 114 O. L. 518.

Under these assumptions, which I think I can fairly make under rules of law applicable to the construction of the acts of a public officer, no reason is seen why this lease should not be approved. And finding that the same has been properly executed by you and by the lessee therein named, and finding further that the provisions of the lease and the conditions and restrictions therein contained are in conformity with the applicable provisions of the DeArmond Act and with those of other statutory enactments relating to the execution of leases of this kind, this lease is hereby approved as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned.

Respectfully,
JOHN W. BRICKER,
Attorney General.

1828.

APPROVAL, LEASE TO LAND AT BARBERTON, OHIO, FOR RIGHT
TO INSERT PIPE INTO LEVEL OF OHIO CANAL.

COLUMBUS, OHIO, November 4, 1933.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination and approval a certain water lease in triplicate, which is executed by you to The Akron and Barberton Belt Railroad Company of Barberton, Ohio. By this lease, which is one for a term of five years and which provides for an annual rental of two hundred and sixteen dollars, payable in semi-annual installments of one hundred and eight dollars each, there is leased and granted to the railroad company above named the right to insert a three-inch pipe into the level of the Ohio Canal at Barberton, Ohio, and by this means during the term of the lease to take from the canal at this point such water as may be necessary for the purpose of supplying the locomotives of the company.

Upon examination of this lease, I find that the same has been properly executed by you and by The Akron and Barberton Belt Railroad Company by the hands of its president and secretary, acting pursuant to the authority of a resolution of the board of directors of said company. I further find upon examination of the provisions of this lease that the same are in conformity with section 14009, General Code, under the authority of which the same is executed, and with other related sections of the General Code applicable in the consideration of leases of this kind.

I am accordingly approving this lease as to legality and form as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith enclosed.

Respectfully,
 JOHN W. BRICKER,
Attorney General.

1829.

PUBLIC BUILDING—VOTE OF ELECTORS NECESSARY IN ERECTING
 SAME JOINTLY BY TOWNSHIP AND VILLAGE—HOW EXPENSE
 THEREOF PAID.

SYLLABUS:

1. *A township and village located in such township cannot unite in the erection of a public building without submitting the same to a vote of the electors of both subdivisions.*
2. *The only method by which the approval of such electors to such an improvement can be obtained, is by submitting to them the question as to whether or not a tax shall be levied on all the property subject to taxation in such township and village for such improvement.*
3. *Upon the approval of the electors by the vote required by section 3402 of the General Code, the cost of said improvement may, if it is not necessary to levy an additional tax therefor, be paid out of the general funds of said subdivisions.*

COLUMBUS, OHIO, November 4, 1933.

HON. RUSSELL V. MAXWELL, *Prosecuting Attorney, Bryan, Ohio.*

DEAR SIR:—I acknowledge receipt of your communication in which you ask certain questions concerning the erection of a public building jointly by a village and township. In the case you present, both the village and township desire to pay their share of the cost of such building out of their general fund which can be done without borrowing and without the assessing of an extra tax levy. The questions presented are whether it is necessary to submit the proposition to a vote of the people, and, if so, if it can be voted upon without submitting to them the question of tax levy since you say an additional tax levy is not necessary.

Sections 3399, 3400, 3401 and 3402, General Code, provide as follows:

Sec. 3399.

"The electors of a township in which a village is situated, and the