

I have carefully examined said resolutions, find them correct in form and legal, and am therefore returning the same to you with my approval endorsed thereon, in accordance with section 1218 of the General Code.

Respectfully,
C. C. CRABBE,
Attorney General.

2892.

APPROVAL, LEASE OF BUILDING IN CINCINNATI.

COLUMBUS, OHIO, October 23, 1925.

HON. G. F. SCHLESINGER, *Director, Department of Highways and Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a lease executed by Val Duttenhofer, Jr., leasing to the State of Ohio for the use of the Industrial Commission, Room 98 of the Duttenhofer Building on the southwest corner of Sixth and Sycamore streets, Cincinnati, Ohio, for the term of twenty-one (21) months, commencing on the 1st day of October, 1925, and ending on June 30, 1927, at a yearly rental of \$480, payable in monthly installments of \$40.00 in advance.

You have submitted the certificate of the Director of Finance to the effect that funds are available to cover the obligations of the state under the lease.

Finding said lease in proper legal form I hereby approve the same as to form and return the same herewith.

Respectfully,
C. C. CRABBE,
Attorney General.

2893.

ABSTRACT, STATUS OF TITLE, PREMISES IN FRANKLIN COUNTY BEING PARTS OF SURVEY NUMBERS 10726 AND 13441.

COLUMBUS, OHIO, October 23, 1925.

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

DEAR SIR:—Examination of a warranty deed and abstract of title submitted by you to this department for examination and opinion, discloses the following:

The abstract under consideration was prepared and certified by Wade J. Beyerly, attorney and abstracter, under date of September 25, 1925, and pertains to the following premises situated in the township of Franklin, county of Ross and state of Ohio, and being parts of Survey numbers 10726 and 13441, and being more particularly described in the caption of the abstract to which this opinion is attached.

Upon examination of said abstract, I am of the opinion that same shows a good and merchantable title to said premises in Rosa Hammond, subject to the following exceptions:

At section 5 of the abstract there appears a transfer of a part of the premises under consideration by virtue of the last will and testament of Duncan McArthur. However, in said section No. 5, it also appears that after the filing of the will of Duncan McArthur a jury was impaneled and sworn, and in a will contest case, a verdict was returned to the effect that the will as probated was not the valid last will and testament of the said Duncan McArthur. This was on October 28, 1839. Following this on April 2, 1840, a petition for partition of the premises of Duncan McArthur was filed, and in said action said premises were partitioned, and a part of same, including a part of the premises here under consideration, was set off to Mary A. Trimble, one of the children of Duncan McArthur.

Following these proceedings, on March 17, 1876, proceedings were instituted in the federal courts at Cincinnati by certain grandchildren of Duncan McArthur, seeking to annul the proceedings whereby the will was set aside, and also to annul the partition proceedings above referred to. In these proceedings in the Federal courts, the plaintiffs, the grandchildren of Duncan McArthur, prevailed, and under the decision in that case by the supreme court of the United States, their interests in the premises were established, and thereupon the case was remanded to the Federal courts at Cincinnati and a master commissioner appointed who was authorized and empowered to advertise and sell the premises in litigation.

Thereafter, on the 6th day of June, 1887, said master commissioner, by virtue of the order of the United States circuit court for the southern district of Ohio, in case No. 2201, sold and transferred a certain tract which included all of that part of the caption lands located in survey 10726. Following this transfer, the deed records of Ross county do not reveal any further transfer of that part of the caption land located in survey No. 10726, but there does appear subsequent transfers of the remaining part of survey No. 10726, whereby the State of Ohio has heretofore acquired all that part of survey No. 10726 not included in the present caption land. This situation leaves a hiatus in the history of that part of the caption land located in survey No. 10726, but in view of the affidavit of Wade J. Beyerly submitted and attached to the abstract, which establishes for a period of thirty-five years open and adverse possession by the present owners and their predecessors in title, it is believed this situation and hiatus in the history of the title may be disregarded.

The taxes for the year 1924 have been paid. The amount of the taxes for the year 1925 has not as yet been determined, but is a lien.

It is further suggested that the proper delivery of the already executed deed submitted with the abstract will be sufficient to convey title of said premises to the State of Ohio.

Attention is also directed to the necessity of the proper certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated sufficient to cover the purchase price before the purchase can be consummated.

Attention is also directed to the provisions of section 12 of the general appropriation act of the 86th General Assembly, which provides that no moneys herein appropriated for the purchase of real estate shall be expended without the consent and approval of the controlling board. This provision must be complied with and properly evidenced before the above purchase can be legally consummated.

The abstract of title and warranty deed submitted by you are herewith returned.

Respectfully,

C. C. CRABBE,

Attorney General.