

4235.

APPROVAL, SUPPLEMENTAL ABSTRACT, ETC., RELATING TO THE PROPOSED PURCHASE OF PARCEL OF LAND IN VILLAGE OF OXFORD, BUTLER COUNTY, OHIO—FRANCES McFARLAND BONHAM.

COLUMBUS, OHIO, May 7, 1935.

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

DEAR SIR:—This is to acknowledge the receipt of your recent communication, enclosing supplemental abstract, warranty deed and contract encumbrance record No. 1636 relating to the proposed purchase of a parcel of land owned of record by one Frances McFarland Bonham in the village of Oxford, Butler county, Ohio, the same being a part of outlot number eight (8) and being more particularly described as follows:

“Beginning at a point in the east line of said Outlot Number Eight (8) a distance of One Hundred Sixty-five (165) feet north of the southeast corner thereof; thence north along the east line of said Outlot Number Eight (8) a distance of Sixty (60) feet to a point; thence west on a line parallel with the south line of said Outlot Number Eight (8) a distance of Two Hundred Fourteen and Five Tenths (214.5) feet; thence south on a line parallel with the east and west lines of said Outlot Number Eight (8) a distance of Sixty (60) feet to a point; thence east on a line parallel with the south line of said Outlot Number Eight (8) a distance of Two Hundred Fourteen and Five Tenths (214.5) feet to the place of beginning; the tract herein conveyed being the north Sixty (60) feet of the south Two Hundred Twenty-Five (225) feet of the east Two Hundred Fourteen and Five Tenths (214.5) feet of Outlet Number Eight (8).”

Upon examination of the supplemental abstract submitted to me and of the original abstract and addenda thereto, submitted in connection with the purchase by the Board of Trustees of Miami University of other parcels constituting a part of Outlot Number Eight, I find that Frances McFarland Bonham has a good and indefeasible fee simple title by perpetual leasehold to the above described parcel of land free and clear of all encumbrances except the following liens which are here noted as exceptions to the title in and by which Frances McFarland Bonham owns and holds this property:

(1) It appears from the abstract that taxes, assessments and penalties on this property for the last half of the year 1933, amounting to the sum of \$110.92 are unpaid and delinquent and are a lien upon the property against which they were assessed including the parcel of land above described. It likewise appears that the taxes and assessments for the year 1934 on that part of Outlot Number Eight owned by Mrs. Bonham and which taxes and assessments for the first half of said year amount to \$106.47 are unpaid and are a lien upon the property. The undetermined taxes for the year 1935 are likewise a lien upon this property. Just what part of the taxes and assessments which stand as a lien upon this entry of real property is to be attributable to the particular parcel of land above described can only be determined by a segregation of said taxes and assessments by the county auditor when the deed for this property is filed with him for transfer.

(2) The property here in question, together with other property owned by Frances McFarland Bonham in Outlot Number Eight is subject to the lien of a mortgage which was executed by Mrs. Bonham and her husband to the Oxford Loan and Building

Association under date of June 22, 1914 and which was refiled for record April 25, 1935. The original amount of this mortgage was \$5,000 and the same is now a lien upon the property in question and upon other property owned by Mrs. Bonham in Outlot Number Eight to the extent of the amount remaining unpaid upon the obligations secured by the mortgage. In this connection I note in the files submitted to me, a copy of a communication addressed to the President and Trustees of Miami University in which said mortgagee agrees to release this mortgage on the parcel of land above described in consideration of the payment to the mortgagee in the sum of \$1,000 plus interest in the amount of \$148.50 plus \$1.60 for the refiling of the mortgage said sums to be paid to it on or before May 23, 1935. I assume that the sums of money above stipulated as a consideration for the release of the mortgage as to this parcel of land are to be paid out of the purchase price of the property.

Upon examination of the warranty deed tendered by Frances McFarland Bonham, I find that the same has been properly executed and acknowledged by her and her husband, Llewelyn Bonham. The deed does not contain any special release of Llewellyn Bonham's expectancy of dower in this property. However, he joins in the granting clause of the deed and the deed as thus executed by him effectually releases his inchoate right of dower in this property.

I further find upon an examination of the provisions of this deed that the form of the same is such that it is legally sufficient to convey to the President and Board of Trustees of Miami University all of the right, title and interest of Frances McFarland Bonham and Llewelyn Bonham in and to the property and that upon acceptance of the deed, Miami University through its President and Board of Trustees will own and hold the fee simple title to the property.

Upon examination of contract encumbrance record No. 1636 which has been submitted as a part of the files relating to the purchase of this property, I find that the same has been properly executed and that there is shown thereby 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 \$2,700. The purchase price of this property being paid from land rents of the university, the approval of this purchase by the Controlling Board is not necessary.

Acting pursuant to your instructions, I am forwarding this opinion together with the abstract of title, deed and other files to the Auditor of State and under separate cover I am sending a copy of this opinion to you.

Respectfully,

JOHN W. BRICKER,

Attorney General.

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APPROVAL, BONDS OF LORE CITY VILLAGE SCHOOL DISTRICT, GUERNSEY COUNTY, OHIO, \$2,500.00.

COLUMBUS, OHIO, May 7, 1935.

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