

2303.

STATUS--CANAL LAND LEASE, STATE OF OHIO, THROUGH DEPARTMENT OF PUBLIC WORKS, WITH E. J. WEBER, EMMA A. THOMAS, CATHERINE M. HURSH, RAY E. SEBALD, HERBERT A. SEBALD AND W. W. SEBALD, HAMILTON, OHIO, TERM FIFTEEN YEARS, RIGHT TO OCCUPY AND USE FOR STOREROOM AND YARD PURPOSES, DESCRIBED PARCEL OF LAND, MIDDLETOWN, BUTLER COUNTY, OHIO, PART OF ABANDONED MIAMI AND ERIE CANAL, ANNUAL RENTAL \$40.00.

COLUMBUS, OHIO, April 13, 1938.

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

DEAR SIR: You have submitted for my examination and approval a canal land lease executed in triplicate to E. J. Weber, Emma A. Thomas, Catherine M. Hursh, Ray E. Sebald, Herbert A. Sebald and W. W. Sebald of Hamilton, Ohio.

By this lease instrument, which is one for a stated term of fifteen years and which provides for an annual rental of \$40.00, payable in semi-annual instalments of \$20.00 each, there is thereby intended to be leased to the persons above named the right to occupy and use for storeroom and yard purposes a parcel of land in the city of Middletown, Butler County, Ohio, which is part of the abandoned Miami and Erie Canal and the embankment thereof and which parcel is more particularly described as follows:

Beginning at the point of intersection of the northerly line of Central Avenue, formerly Third Street, in the City of Middletown, Butler County, Ohio, with the easterly line of the Miami and Erie Canal property, as shown by the S. A. Buchanan Survey of said canal through said city, a plat of which survey is on file in the office of the Department of Public Works, Columbus, Ohio; running thence, in a northeasterly direction with the said easterly canal line, fifty (50') feet; thence in a northwesterly direction at right angles to the said canal property line, ten (10') feet, to a point; thence in a southwesterly direction, ten (10') feet from and parallel with said easterly canal property line, fifty (50') feet to the northerly line of said Central Avenue; thence

with the said northerly line of Central Avenue, in a southeasterly direction, ten (10') feet to the place of beginning, and containing .011 acres, more or less.

The parcel of land intended to be covered by this lease instrument is a part of that section of the Miami and Erie Canal which was abandoned for canal and hydraulic purposes by an act of the 87th General Assembly enacted under date of April 21, 1927, which was carried into the General Code as Sections 14153-1 to 14153-11, General Code. By the provisions of this act all of the Miami and Erie Canal lands thereby abandoned were placed under the jurisdiction and control of the Director of Highways. However, by an act of the 91st General Assembly enacted under date of May 6, 1935, 116 O. L., 158, 157, amending Sections 14153-5 to 14153-10, inclusive, General Code, provision was made for the return to the jurisdiction and control of the Director of Public Works of such parts of the Miami and Erie Canal lands abandoned by said former act as are not needed by the Director of Highways in any contemplated plan of highway improvement; and by this later act the Superintendent of Public Works is authorized to sell or lease such parcels of said canal lands as are thus returned to his jurisdiction by proper action of the Director of Highways evidencing his intention not to use such parcels of canal lands for highway purposes.

In this connection, it is noted that there is set out in this lease and in the duplicate and triplicate copies thereof, a copy of an entry made by the Director of Highways in his office journal finding and reciting that the above described parcel of Miami and Erie Canal land is not needed in any scheme of highway improvement and directing the release of the same to the Superintendent of Public Works for disposition as provided for by law.

Upon examination of this lease, I find that the same and the conditions and restrictions therein contained are in conformity with the statutory provisions above noted and with other statutory enactments relating to leases of this kind. And with one exception here noted, I find that the lease has been properly executed by you as Superintendent of Public Works, acting for and on behalf of the State of Ohio, and by the intended lessees above named. The lease has been properly signed and executed by these several lessees; but the names of the lessees, other than that of E. J. Weber, are not carried into the body of the lease as the named lessees therein but such persons are referred to therein by the expression "et al." following the name of said E. J. Weber. It is suggested that in place of the expression "et al." as so used, the names of the other lessees

be written into the body of the lease immediately following the name of E. J. Weber as therein written. And acting under the assumption that this correction will be made, said lease is hereby approved by me 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,

HERBERT S. DUFFY,

*Attorney General.*

2304.

APPROVAL—PROPOSED SALE AND CONVEYANCE TO WALTER BORRESON, LOCKLAND, OHIO, PARCEL, ABANDONED MIAMI AND ERIE CANAL LANDS, CINCINNATI, OHIO, PARCEL No. 187, APPRAISED AT \$1740.00.

COLUMBUS, OHIO, April 13, 1938.

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

DEAR SIR: You have submitted for my examination and approval a transcript of your proceedings as Superintendent of Public Works relating to the proposed sale and conveyance to one Walter Borreson of Lockland, Ohio, of a parcel of abandoned Miami and Erie Canal lands in the city of Cincinnati, Ohio, which was relinquished by the city of Cincinnati, Ohio, to the State of Ohio by deed under the authority of and in the manner provided for by Amended Senate Bill No. 123 enacted by the 87th General Assembly under date of May 2, 1927, which parcel of land is sufficiently designated and described for the purposes of this opinion as being Parcel No. 187 of the Miami and Erie Canal lands relinquished to the State of Ohio under said act.

By this act, which provided generally for the relinquishment to the State of Ohio of such parcels of Miami and Erie Canal lands, theretofore leased to said city by the state for subway and boulevard purposes, as were not needed for such purposes, it was further provided that such parcels of canal lands thus relinquished to the state should be sold to the owner or owners of property contiguous to and abutting upon the parcels of canal lands thus made available for sale