

1977.

APPROVAL, LEASE TO CANAL LAND IN THE CITY OF NEW PHILADELPHIA, TUSCARAWAS COUNTY, OHIO—B. H. BARNHOUSE.

COLUMBUS, OHIO, June 13, 1930.

HON. ALBERT T. CONNAR, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—There has been submitted for my examination and approval a certain canal land lease, executed by you as Superintendent of Public Works on behalf of the State of Ohio, by the terms of which there is leased and demised to one B. H. Barnhouse of Newcomerstown, Ohio, for the term of fifteen years, a certain parcel of Ohio canal lands located in the city of New Philadelphia, Tuscarawas County, Ohio, more particularly described as follows:

Being the full width of the bed and embankments thereof, and extending from a line drawn at right angles to the transit line of the G. F. Silliman's survey of said canal property through Station 1692 of said survey and running thence southeasterly with the lines of said canal property 316 feet, more or less, to the northwesterly line of the county road crossing said canal at or near Station 1695 plus 16 of said survey and containing nine-tenths (0.9) of an acre, more or less.

Also that portion of the State lot conveyed by John Warner and wife to the State of Ohio under date of May 22, 1897, and lying immediately southwesterly from the above described property, and containing one (1) acre, more or less;

Reserving therefrom any portion of the above described property that may be occupied by a public highway.

This property has been appraised at a valuation of \$1,000.00, and the annual rent for the same reserved in said lease is 6% upon said appraised valuation; to wit: the sum of \$60.00.

Upon examination of the provisions of said lease, I find that save and except the provision therein with respect to the lessee's right of renewal, which may be rejected as unauthorized and void, said lease is in conformity with the provisions of Sections 13965 et seq., Section 464 and other related sections of the General Code applicable in the consideration of leases of this kind. Said lease is accordingly approved by me as to legality and form, as is evidenced by my authorized signature endorsed on said lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1978.

APPROVAL, ABSTRACT OF TITLE TO LANDS OF THE GREENVILLE HISTORICAL SOCIETY, IN NEAVE TOWNSHIP, DARKE COUNTY, OHIO.

COLUMBUS, OHIO, June 13, 1930.

HON. HARRY D. SILVER, *Director of Finance, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of your communication of June 9,

1930, with which you submit for my examination and approval the corrected abstract of title and other files relating to certain lots and tracts of real property situated in Neave Township, Darke County, Ohio, and of which the Greenville Historical Society now owns and holds the record title. The real property here in question and the several lots and tracts thereof are more particularly described as follows:

Lots Forty-four (No. 44) and Forty-five (No. 45) in the town of Ft. Jefferson, Ohio;

Lots Forty-six (No. 46) and Forty-seven (No. 47) in the town of Ft. Jefferson, Ohio;

Part of the Southeast quarter of Section 28, Town 11, Range 2 east commencing at a point on the North line of lands owned by Sebastian Victor in the Southeast quarter of said Section 28, 517.35 feet West from an iron pin at the Northeast corner of said Veitor's land and in the center of the Greenville and Ft. Jefferson pike; thence North 89 deg. and 30' West with the South line of said Viotor's land 260.75 feet, thence North 3 deg. 5' East 31.75 feet, thence South 86 deg. east 59.8 feet to a stone at the Southwest corner of lands now owned by William Lease, thence same course 199.2 feet to a stone at the Southeast corner of said Lease's land, thence South 3 deg. 10' east 16 feet to the place of beginning, containing one hundred and forty-two one thousandths of an acre;

Lots Forty-eight (48) and Forty-nine (49) in the town of Ft. Jefferson, Ohio;

Lot Numbered Forty-three (43) in the town of Ft. Jefferson, Ohio;
South half of Lot Numbered Sixteen (No. 16) in Ft. Jefferson, Darke County, Ohio;

Part of the Southeast quarter of Section 28, Town 11, Range 2 East; Commencing on the North line of said quarter at a point 28 chains 45 links east from the Northwest corner thereof, thence North 89 deg. 15' East on and along said North line five chains and six links; thence South 2 deg. 20' east five chains and ninety-nine and one-fourth links; thence north 86 deg. 00' West three chains and ninety-two and one-half links; thence South 3 deg. 05' West forty-eight ad one-tenth link; thence north 89 deg. 30' West two chains and thirty-two links; thence north 8 deg. 45' east six chains and eighteen and one-half links to the place of beginning, containing 3.349 acres of land.

The above described property is being purchased by the State of Ohio through the Greenville Historical Society for the use of the Ohio State Archaeological and Historical Society, pursuant to the provisions of House Bill No. 143, passed by the 88th General Assembly, April 5, 1929.

The title to the several lots and parcels of land above described has been the subject of a number of opinions of this office from the time that the abstract of title covering said lots and parcels of land was first submitted to me for examination and approval. Upon examination of the corrected abstract of title now submitted, I am of the opinion that the Greenville Historical Society now has a good merchantable fee simple title to each and all of the above described lots and parcels of land free and clear of all encumbrances except the undetermined taxes upon said several lots and parcels for the year 1930.

With the corrected abstract of title, above referred to, you have submitted to me a warranty deed executed by the Greenville Historical Society, by its proper officers,

conveying the above described property to the State of Ohio. Upon examining said warranty deed I find that the same has been properly executed and acknowledged, and that said deed as to form, is sufficient to convey to the State of Ohio a fee simple title to each and all of the several lots and parcels of land above described free and clear of all encumbrances whatsoever.

Accompanying the warranty deed of the Greenville Historical Society to the State of Ohio I find in the files submitted to me a number of deeds by which the Greenville Historical Society obtained title to this property. The deeds here referred to are the following:

(1) A deed from Katherine H. Schlechty conveying to the trustees of the Greenville Historical Society lots numbers 44, 45, 46 and 47 in the original town plat of Fort Jefferson, Neave Township, Darke County, Ohio, as well as the .142 acres of land above described;

(2) A deed executed by the American Aggregates Corporation conveying to the Greenville Historical Society the 3.349 acres tract of land above described;

(3) A deed executed pursuant to law by the board of township trustees of Neave Township, Darke County, Ohio, conveying to the Greenville Historical Society lots numbers 43, 48 and 49 on the recorded plat of the village of Fort Jefferson, above described;

(4) A deed executed by Carl W. Enzle and Lona Enzle, his wife, conveying to the Greenville Historical Society the south half of lot number 16 in the town of Fort Jefferson, Ohio, above described.

With said above mentioned deeds conveying said several lots and parcels of land to the Greenville Historical Society there is likewise submitted a quit claim deed executed and delivered to the trustees of the Greenville Historical Society by George A. Katzenberger and Grace M. Katzenberger, former owners in the chain of title of said 3.349 acres tract of land, conveying the same by corrected description to the Greenville Historical Society. This deed is executed for the purpose of correcting a slight error in the description of said property contained in a former warranty deed executed by said grantors in the chain of title.

An examination of the several deeds above referred to, shows that each and all of the same have been properly executed and that as to form they are sufficient to convey to the Greenville Historical Society a fee simple title to the several lots and parcels of land therein respectively described. However, none of said deeds have been filed for record; and as to this the observation may be made that properly each and all said deeds conveying the property here in question to the Greenville Historical Society should be filed for record and notation thereof made in the abstract before the execution and delivery of the deed of the Greenville Historical Society conveying this property to the State of Ohio. However, this is a criticism which does not affect the title of the Greenville Historical Society to this property, but the request is here made that all of the deeds above referred to should be filed for record and a notation of the record thereof carried into the abstract of title as soon as the transaction relating to the purchase of this property is closed.

As above noted herein the property here in question is being procured by the State of Ohio pursuant to the authority of an act of the 88th General Assembly, passed April 5, 1929, in which an appropriation in the sum of three thousand dollars (\$3,000.00) is made for this purpose. I see nothing in the provisions of this act

taking the purchase of this property out of the application of Section 2288-2, General Code, which provides that before any officer, board or commission of the state enters into any contract, agreement or obligation involving the expenditure of money, or passes any resolution or order for the expenditure of money, the Director of Finance shall first certify that there is a balance in the appropriation pursuant to the time such obligation is required to be paid, not otherwise obligated to pay precedent obligations. Before the purchase of this property is closed there should be submitted to me for approval encumbrance estimates covering the several sums of money to be paid for this property.

I am returning to you, with my approval, said corrected abstract of title and warranty deed executed by the Greenville Historical Society, as well as the other files which you submitted to me.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1979.

APPROVAL, ABSTRACT OF TITLE TO PREMISES OF CORA M. ARTRIP
IN THE VILLAGE OF NEW RUMLEY, HARRISON COUNTY, OHIO.

COLUMBUS, OHIO, June 12, 1930.

The Ohio State Archaeological and Historical Society, Ohio State University, Columbus, Ohio.

GENTLEMEN:—You have submitted for my examination and approval a corrected abstract of title covering certain lots and parcels of land owned of record by one Cora M. Artrip in the village of New Rumley, Harrison County, Ohio, which property is more particularly described in Opinion No. 1934, directed to you under date of June 2, 1930.

Upon examination of the corrected abstract of title submitted I find that the objections noted by me in said former opinion have been corrected by a number of affidavits which have been prepared and made a part of said abstract. Without discussing at length the tenor and effect of said affidavits, I am of the opinion upon the examination of said abstract of title that said Cora M. Artrip has a good merchantable fee simple title to the property here in question, free and clear of all encumbrances except the taxes for the last half of the year 1929, payable June 20, 1930, amounting to ninety-four cents (\$.94), and the undetermined taxes for the year 1930. The taxes here referred to are, of course, a lien upon said property.

The warranty deed executed by said Cora M. Artrip and Benjamin Artrip, her husband, was approved by me in the former opinion above referred to, as likewise were encumbrance estimate No. 312 and the other files submitted to me relating to the purchase of this property.

I am accordingly returning to you with my approval, said corrected abstract of title, warranty deed, encumbrance estimate and other files submitted to me in this matter.

Respectfully,
GILBERT BETTMAN,
Attorney General.