

action for injunction that followed, the beer parlor host, operator and owner defended on the theory that the tax sale created a new spotless title, free from any former adverse interests, including restrictions. In deciding that the restrictions survive a tax sale, the court said:

“A tax sale, though operating to give the purchaser a title free of encumbrances, does not divest the premises of a negative easement to which they are subject.”

While there are a few authorities holding a contrary view, I think it will be found that generally they are from states having far more rigid provisions for delinquent tax sales than those found in Ohio.

It is, therefore, my opinion that in Ohio the rule is the same as the majority of holdings in other jurisdictions, that is, where restrictions including minimum construction costs on any lot are enforceable by the person originally restricting the use of such property or by the assigns of such person, or by the owners of other properties of the allotment or district, such rights of enforcement are not lost nor abated by a tax lien foreclosure and sale of such lot.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

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573.

BONDS—CITY OF CLEVELAND, CUYAHOGA COUNTY, \$5,000.

COLUMBUS, OHIO, May 11, 1939.

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

GENTLEMEN:

RE: Bonds of the City of Cleveland, Cuyahoga County,  
Ohio, \$5,000.00.

The above purchase of bonds appears to be part of a \$400,000.00 issue of river and harbor bonds of the above city dated July 1, 1926. The transcript relative to this issue was approved by this office in an opinion rendered to the Industrial Commission of Ohio under date of October 17, 1936, being Opinion No. 6216.

It is accordingly my opinion that these bonds constitute valid and legal obligations of said city.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*