

and the same shows a sufficient balance in the appropriation made to Kent State University by Amended Senate Bill No. 315 to pay the purchase price of this property. It is further noted from the recitals contained in this contract encumbrance record that the purchase of this property has been approved by the Controlling Board.

I am herewith returning to you said warranty deed and contract encumbrance record No. 2194, but I am retaining the abstracts of title and extensions thereto temporarily for use in the investigation of the title of other property which is being purchased through your department for the use of Kent State University.

Respectfully,

HERBERT S. DUFFY,

Attorney General.

2618.

APPROVAL—CORRECTED AND EXTENDED ABSTRACT OF TITLE AND OTHER INSTRUMENTS, STATE OF OHIO, THROUGH DIRECTOR, DEPARTMENT OF PUBLIC WORKS, FOR USE KENT STATE UNIVERSITY, PROPOSED PURCHASE PARCEL OF LAND, DESCRIBED, FROM REESE J. DAVIS AND CHARLOTTE E. DAVIS, LOT NO. 13, PART OF FRANKLIN TOWNSHIP, PORTAGE COUNTY, OHIO.

COLUMBUS, OHIO, June 20, 1938.

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

DEAR SIR: This is to acknowledge the receipt of your recent communication with which you submit for my examination and approval a corrected and extended abstract of title, a corrected warranty deed, contract encumbrance record No. 2195 and other files relating to the proposed purchase by the State of Ohio, for the use of Kent State University, of a parcel of land which is owned of record by Reece J. Davis and Charlotte E. Davis in the City of Kent, Portage County, Ohio, the same being a part of Franklin Township Lot No. 13, and being more particularly described as follows:

Beginning at a marked stone at the northeast corner of Township Lot No. 13, thence south 0° 12' west along the east line of said lot, six hundred thirty-three and sixty-six hundredths

(633.66') feet to an iron pipe in the center line of Summit Street; thence north $50^{\circ} 13'$ west along the center line of said street, three hundred ninety-eight and thirty-eight hundredths (398.38') feet to a point; thence north $43^{\circ} 01'$ east, one hundred ninety and five-hundredths (190.05') feet along the southeasterly line of a tract of land owned jointly by William Thomas and Clara M. Thomas; thence north $50^{\circ} 13'$ west along the easterly end of the said Thomas tract, fifty (50') feet; thence south $43^{\circ} 01'$ west, parallel with the southeasterly line of premises now owned by Julia Sawyer, one hundred ninety and five-hundredths (190.05') feet to the center line of said Summit Street; thence north $50^{\circ} 13'$ west thirty-two and fourteen-hundredths (32.14') feet to an iron pipe; thence north $47^{\circ} 38'$ west, eighty-three and eighty-six hundredths (83.86') feet to a point in the center line of Summit Street that will be intersected by producing the southeasterly line of the Julia Sawyer tract; thence north $43^{\circ} 01'$ east along the southeasterly line of the Julia Sawyer tract, three hundred seventy and eighty-three hundredths (370.83') feet to a stone in the line between lots Nos. 13 and 24 in Franklin Township, Portage County, Ohio; thence south $89^{\circ} 32'$ east, along the line between said lots Nos. 13 and 24, one hundred eighty and forty-seven hundredths (180.47') feet to the point of beginning and containing three and fifty-one hundred and forty-seven ten-thousandths (3.5147) acres, more or less.

This opinion supplements Opinion No. 1473 directed to you under date of November 17, 1937, on the original abstract of title and extensions thereto relating to the title to this property and on a warranty deed theretofore executed by said Reese J. Davis and Charlotte E. Davis and tendered to the State for the purpose of conveying this property to the State by the description of the property as the same was therein made. In the former opinion of this office here referred to a number of objections in the early history of the title to this property were noted as was also a defect in the description of the property as contained in said deed. Further information furnished to me in recent corrections and extensions to the abstract of title obviates all of the exceptions to the title noted in said former opinion other than that with respect to the mortgage on the property hereinafter noted, and other than that noted with respect to the taxes.

On examination of the corrected and extended abstract of title of the above described tract of land, I find that Reese J. Davis and Charlotte E. Davis, as tenants in common, have a good and indefeasible fee simple title to this property and that they own and hold the same free and clear of all encumbrances except a mortgage executed by said Reese J. Davis and

Charlotte E. Davis to The Kent National Bank under date of November 16, 1936. This mortgage was and is one executed to said bank for the purpose of securing the payment of a promissory note of even date therewith for the sum of \$2500.00, together with interest thereon, said principal and interest to be paid in installments of \$30.00 per month until the full amount of said note and accrued interest thereon is paid. This mortgage has not been canceled of record and the same is a lien on the above described parcel of land and on the buildings and other improvements thereon to the extent of the amount remaining unpaid on the note secured by said mortgage and the accrued and unpaid interest thereon and, needless to say, provisions should be made for the payment of the amount remaining due on this note and mortgage, together with the interest thereon, before or at the time the transaction for the purchase of this property is closed.

It appears from the last extension to the abstract of title submitted to me, which extension is under date of May 9, 1938, that the taxes on this property for the last half of the year 1937, amounting to \$28.21, are unpaid and are a lien upon the property, as are the undetermined taxes for the year 1938. In addition to the taxes here noted, which are a lien upon this property, it appears that this property is likewise subject to the lien of a special assessment for the construction of a sanitary sewer; the balance of which assessment on this property is payable in annual installments as follows, to wit:

June, 1938	\$12.73
June, 1939	12.14
June, 1940	11.55
June, 1941	10.97
June, 1942	10.38

As above noted, these taxes and assessments are liens upon this property and the same should be adjusted and paid before or at the time of the closing of the transaction for the purchase of this property.

Upon examination of the warranty deed tendered by Reese J. Davis and Charlotte E. Davis, who as husband and wife, own the above described property, I find that this deed has been properly executed and acknowledged by said grantors and that the form of this deed is such that the same is legally sufficient to convey this property to the State of Ohio, the grantee therein named, by fee simple title free and clear of the inchoate dower right which each of these grantors has in the undivided interest of the other in and to this property; and with a covenant of warranty that this property is conveyed to the State free and clear of all encumbrances whatsoever except taxes and assessments becoming due and

payable in June, 1938, and thereafter, as to which there is a provision in this deed and covenant that "the grantee assumes and agrees to pay" such taxes and assessments. This provision in the deed indicates, perhaps, some agreement or understanding by and between the above named grantors and the authorities of Kent State University that these taxes and assessments are to be paid by the University out of available moneys held by the institution for this purpose. However this may be, some adjustment with respect to this matter should be made before this property is purchased by the issue of the warrant of the Auditor of State covering the purchase price of this property or the grantors' equity herein.

On examination of contract encumbrance record No. 2195, I find that the same has been properly executed and acknowledged and that there is shown thereby a sufficient unencumbered balance to the credit of the appropriation of Kent State University to pay the purchase price of this property, which purchase price is the sum of \$13,250.00. It likewise appears from a recital contained in this contract encumbrance record that the purchase of this property has been approved by the Controlling Board.

I am herewith returning to you the abstract of title and the several extensions thereof relating to the title to this property, the warranty deed above referred to, contract encumbrance record No. 2195 and the several copies thereof submitted to me, as well as the other files relating to the purchase of this property.

Respectfully,

HERBERT S. DUFFY,

Attorney General.

2619.

MOTOR VEHICLE- -SECTION 12603 G. C. LAWFUL SPEED- -
SCHOOL BUILDING—APPLICATION WHERE GROUNDS
NOT CONTIGUOUS TO PUBLIC STREET, ROAD OR HIGH-
WAY.

SYLLABUS:

The provisions of Section 12603 of the General Code, setting forth a prima facie lawful speed at which a motor vehicle may be operated in passing a school building or the grounds thereof at certain times, has no application in those instances where school buildings or the grounds thereof are not contiguous to a public street, road or highway.