

line of said lot 4, north 87°-10' west, four hundred sixty-two (462.00) feet to the southwest corner of said lot 4. Thence with the west line of said lot 4, north 1°-35' east, one hundred sixty-seven and sixty-four hundredths (167.64) feet to the place of beginning. Containing one and seven tenths (1.7) acres more or less. Being all of said lot 4 excepting a strip uniformly thirty and thirty-six hundredths (30.36) feet wide off the north side of said lot.

Upon examination of the abstract of title submitted which is certified by the abstracter under date of November 10, 1928, I find that said Edjel C. Lutz has a good and merchantable fee simple title to the above described tract of land, free and clear of all encumbrances whatsoever except taxes for the year 1928 amounting to \$5.24 and assessments in the sum of \$5.02. Inasmuch as some time has elapsed since the date of the certification of this abstract, it is suggested that before the transaction relating to the purchase of this property is closed, that a check be made of the records of Champaign County, Ohio, for the purpose of ascertaining whether or not any mortgages, other liens and encumbrances by way of judgments, mechanics liens or foreign executions have been placed on said premises since the date of the certification of said abstract.

I have examined the deed form submitted, and find the same to be incorrect in the following particulars: 1. The consideration stated in the deed form is "one dollar and other good and valuable considerations." This should be stricken out and in place thereof should be inserted "Five Hundred Dollars, (\$500.00)." 2. There should be stricken from the warranty clause in said deed form the following: "which taxes and special assessments the grantee assumes and agrees to pay as part of the purchase price." The deed form submitted is otherwise according to law and when properly executed by said Edjel C. Lutz will be sufficient to convey to the State of Ohio a fee simple title to said property, free and clear of all encumbrances save and except such taxes and assessments as may be due and payable in June, 1929. It is suggested that when said deed has been executed and acknowledged by said grantor that the same be submitted to this department for approval.

Encumbrance estimate No. 3193, submitted to me, shows that an appropriation in the amount of \$500.00 has been made to pay the purchase price of this property; that no payments have been made from said appropriation and that the same is now intact for the purpose of paying the purchase price of this tract of land.

The controlling board certificate submitted to me, shows that under date of March 1, 1929, the Controlling Board approved the purchase of this tract of land for the sum of \$500.00.

I am herewith returning said abstract of title, deed form, encumbrance estimate No. 3193, controlling board certificate, and the blue print to said property which accompany said abstract.

Respectfully,
GILBERT BETTMAN,
Attorney General.

239.

MUNICIPALITY—AUTHORITY TO ISSUE BONDS FOR A CADASTRAL SURVEY.

SYLLABUS:

A municipality is authorized by the Uniform Bond Act to issue bonds for the purpose of paying the cost of a cadastral survey.

COLUMBUS, OHIO, March 25, 1929.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—This will acknowledge receipt of your letter of recent date, which reads as follows:

“The city of Cincinnati has had, since the year 1912, a topographic survey of a large part of its area and at this time wishes to have made a cadastral survey to be used in connection with the topographic plat but is unable to meet the expense from its general funds.

Question: May bonds be issued under the provisions of Section 2293-2, General Code, 112 O. L. 365, for the purpose of paying the cost of a cadastral survey?

Letter received from Mr. Henry M. Bruestle, Assistant City Solicitor, of Cincinnati, is enclosed herewith.”

The letter of the Assistant City Solicitor is as follows:

“The city of Cincinnati has had, since the year 1912, a topographic survey of a large part of its area. This survey has been of inestimable value to the city in planning the construction of streets and sewers. At the time of its completion it was recommended that a cadastral survey be made to be used in connection with a topographic plat, for those two factors—topography and property lines—are unavoidably perpetuated throughout the life of the community. However, because of lack of funds, such cadastral survey has not been made.

The value of such cadastral surveys is becoming more pronounced with each passing year and at this time a number of cities are well equipped in this regard, notably the cities of Baltimore, Maryland, and Richmond, Virginia. The cities of Pittsburgh, Pennsylvania, and Columbus, Ohio, are now taking the preliminary steps toward the adoption of such property plats.

It is our desire to begin work on such cadastral surveys in the city of Cincinnati. It is proposed to have the work done by a group of engineers hired under contract. It is estimated that the work will take from four to five years with an expenditure of about \$40,000.00 per year.

As to the authority of the city to make such survey out of its current revenue there can be no doubt. However, the city of Cincinnati proposes to issue bonds under authority of the Uniform Bond Act to pay for this work.

Section 2 of said act (2293-2 G. C.) provides in part that ‘the taxing authority of any subdivision shall have power to issue the bonds of such subdivision for the purpose of acquiring or constructing, any permanent improvement which such subdivision is authorized to acquire or construct.
* * * ’

‘Permanent improvements’ is defined in paragraph ‘E’, Section 1 of said act (2293-1, G. C.) as ‘permanent improvement’ or ‘improvements’ shall mean any property, asset or improvement with an estimated life or usefulness of five years (5) or more, including land and interests therein, and including reconstruction, enlargements and extensions thereof having an estimated life or usefulness for five (5) years or more. * * * ’

I believe that the cadastral survey such as contemplated by the city of Cincinnati has an everlasting life—the surface of the land may be scratched and the lines of some property may be superficially altered but the monuments

remain and any alterations may be speedily adapted to the changed line. I believe further that the survey is such 'property, assets or improvements' as is contemplated by the General Assembly in the definition above quoted.

Will you kindly submit this matter to the Attorney General for opinion as to the correctness of my intentions? It is desired to begin this work as soon as possible and your prompt action would be greatly appreciated."

The sections of the General Code referred to are a part of the Uniform Bond Act and, in so far as pertinent, are as follows :

Section 2293-2: "The taxing authority of any subdivision shall have power to issue the bonds of such subdivision for the purpose of acquiring or constructing, any permanent improvement which such subdivision is authorized to acquire or construct. * * * "

Section 2293-1. "* * * "

(e) 'Permanent improvement' or 'improvement' shall mean any property, asset or improvement with an estimated life or usefulness of five (5) years or more, including land and interests therein, and including reconstructions, enlargements and extensions thereof having an estimated life or usefulness of five years or more. Reconstruction for highway purposes shall be held to include the resurfacing but not the ordinary repair of highways.

* * * "

Cadastral is defined in Webster's New International Dictionary as follows :

"Of or pertaining to landed property, especially as to its extent, value and ownership. Cadastral survey, map or plan, strictly a survey, map, or plan for the purpose of making a cadastre; hence commonly one made on a large scale (usually about 1/2500, that is, about 25 inches to the mile or a square inch to the acre) so as to represent exactly the relative positions and dimensions of objects and estates."

A cadastral survey appears to be a survey to establish not only a permanent record of ownerships and values of all real estate within the corporate limits of a municipality, but also to determine and establish all property lines within such limits. It further appears that the making of such a survey contemplates a fixing of permanent monuments at street intersections and other points where it is advantageous to fix any or all property lines. If a municipality has authority to issue bonds for the purpose of paying the cost of a cadastral survey, such authority is only found in Section 2293-2, supra. There are here set forth two limitations upon such power: First, that it shall extend to the issuance of bonds for the purpose of acquiring or constructing any permanent improvement, and, second, that such permanent improvement shall be such as the municipality is authorized to acquire or construct.

Permanent improvement, as defined in Section 2293-1, supra, is any property with an estimated life or usefulness of five years or more, or any improvement with such estimated life or usefulness, or any asset with such estimated life or usefulness. Clearly a cadastral survey may very properly be an asset to a municipality of inestimable value in connection with such municipality's zoning activities, building program, street improvements and numerous other municipal functions. As to the estimated life or usefulness of such a survey as is here contemplated, this, undoubtedly, extends over a period far in excess of five years. Monuments placed at fixed points within the municipality are in their nature probably more permanent

than a large percentage of the buildings erected within the municipality. It, therefore, appears that a cadastral survey is clearly a permanent improvement as defined in the aforementioned section of the Uniform Bond Act.

Section 3939 of the General Code, prior to amendment in 1927, set forth in tabulated form certain specific purposes for which a municipality may issue bonds. This section, however, was amended and made a part of the Uniform Bond Act. There is now set forth a tabulation not of purposes for which a municipality may issue bonds, but of powers which a municipality shall have, which powers are stipulated to be "in addition to other powers conferred by law." The provisions of Section 2293-2, supra, providing for the issuance of bonds, naturally refer, in the case of municipalities, to powers of such municipalities as defined in Section 3939, General Code. It is noted that said Section 3939, in specifically stating that the powers therein set forth shall be in addition to other powers conferred by law, greatly broadens the powers of a municipality in the issuance of bonds, which are, of course, always subject to the limitations set forth in said Section 2293-2.

In further substantiation of the evident intent of the Legislature not to limit a municipality in issuing bonds to certain specified purposes, attention is directed to Section 2293-9, which provides for maximum maturities for various classes of bonds. After referring to rapid transit bonds, real estate bonds, road, highway, waterworks, storm sewer bonds, and numerous other classes, said section expressly provides as follows:

"Class (H) Purposes not included in the foregoing classes, such number of years not less than five and not exceeding thirty as is the estimated period of usefulness, such estimate to be made by the fiscal officer."

Clearly it is contemplated in the Uniform Bond Act that bonds may be issued by a taxing authority for purposes other than those specifically mentioned therein, provided that such purpose or purposes are for acquiring or constructing a permanent improvement which such subdivision is authorized to acquire or construct. As to the authority of a municipality to make either a cadastral survey or any other kind of a survey within its own corporate limits, I believe there can be no question, since the people of Ohio adopted the so-called home rule provisions of the Ohio Constitution.

In view of the foregoing, I am of the opinion that a municipality is authorized by the Uniform Bond Act to issue bonds for the purpose of paying the cost of a cadastral survey.

Respectfully,
GILBERT BETTMAN,
Attorney General.

240.

APPROVAL, BONDS FOR THE FAITHFUL PERFORMANCE OF THEIR
DUTIES AS RESIDENT DISTRICT DEPUTY DIRECTORS—FOUR DI-
RECTORS.

COLUMBUS, OHIO, March 25, 1929.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—You have submitted for my consideration four bonds in the sum of five thousand dollars each and conditioned for the faithful performance of the duties of the principals as resident district deputy directors, as follows:

M. O. Enterline, principal, Division No. 1, upon which the Massachusetts Bonding and Insurance Company appears as surety.

Harry D. Metcalf, principal, Division No. 6, upon which the Indemnity Insurance Company of North America appears as surety.

Walter V. Scott, principal, Division No. 7, upon which The Ohio Casualty Insurance Company of Hamilton, Ohio, appears as surety.

Frayne L. Combs, principal, Auglaize County, upon which The Ohio Casualty Insurance Company appears as surety.

The above bonds are given in pursuance to the provisions of Section 1162 of the General Code, which section specifically requires that resident district deputy directors give bond in the amount above indicated, with sureties to your approval. The bonds have been properly executed and bear your approval thereon.

It is further noted that in the official roster of the Division of Insurance the sureties heretofore mentioned have been duly authorized to transact business in Ohio.

In view of the foregoing, I have approved said bonds as to form and return the same herewith.

Respectfully,
GILBERT BETTMAN,
Attorney General.

241.

APPROVAL, NOTES OF BOKESCREEK RURAL SCHOOL DISTRICT,
LOGAN COUNTY—\$75,000.00.

COLUMBUS, OHIO, March 25, 1929.

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

242.

MUNICIPALITY—MAY FURNISH WITHOUT CHARGE PRODUCTS OF
ITS WATERWORKS, GAS OR ELECTRIC PLANT FOR MUNICIPAL
AND PUBLIC PURPOSES—CONDITIONS.

SYLLABUS:

A municipality which owns its own waterworks, gas or electric plant, may lawfully provide by ordinance of its council or other legislative authority to furnish free of charge the product of such plant for municipal or public purposes, if the cost of furnishing the same is met from the general revenue fund of the corporation and not prorated among the other patrons of the waterworks, gas or electric plant who are charged service rates based on the cost of the management and operation of the plant.

COLUMBUS, OHIO, March 26, 1929.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—This will acknowledge receipt of your request for my opinion as follows: