

No deed is submitted with the papers, although a blank form of an Ohio warranty deed containing a description of the premises proposed to be conveyed was transmitted. Since the deed is not further prepared or executed, this department cannot pass upon the same.

I am herewith returning the file relating to Tract No. 10, including the abstract of title and blank form of deed.

Respectfully,
EDWARD C. TURNER,
Attorney General.

572.

DISAPPROVAL, ABSTRACT OF TITLE TO GUILFORD LAKE PARK
LAND, HANOVER TOWNSHIP, COLUMBIANA COUNTY.

COLUMBUS, OHIO, June 4, 1927.

HON. GEORGE F. SCHLESINGER, *Director, Department of Highways and Public Works,*
Columbus; Ohio.

DEAR SIR:—You have resubmitted for my opinion encumbrance estimate No. 3980, blank form of Ohio warranty deed and the abstract, prepared by McMillan & Kelso under date of April 24, 1926, recertified under date of December 24, 1926, and again recertified under date of May 25, 1927, covering the land known as Tract No. 9, Guilford Lake Park, situate in the township of Hanover, county of Columbiana and state of Ohio, and being in the northeast quarter of section No. 2 in said township, county and state, and more particularly described as:

Beginning on the north and south line between sections Nos. 1 and 2, at a post set 2641.98 feet north of the southeast corner of said section No. 2, which point is also the southeast corner of said grantors' land; thence S. 89° 42' W. along the south line of said grantors' land 561.00 feet to a post set at the southwest corner of said grantors' land; thence N. 0° 58' W. along the west line of said grantors' land 729.30 feet to a post at the northeast corner of land now owned by Garrett C. Camp; thence N. 0° 10' E. along the easterly line of lands now owned by Lucina A. Gardner 62.40 feet to a stake in the center of the easterly and westerly road running through said section No. 2, thence N. 77° 40' E. along the center line of said road 336.80 feet to a stake; thence S. 15° 23' E. 168.80 feet to a stake; thence S. 50° 13' E. 260.35 feet to a stone in the east line of said section No. 2, which line is also the east line of said grantors' land; thence south along said section line 530.10 feet to the place of beginning and containing 9.77 acres of land be the same more or less.

This tract is a part of a tract containing 12.16 acres, owned by Andries Kuyper, situate in said township, county and state, described in my former opinion under date of February 28, 1927, and covered by the abstract above noted.

Upon re-examination of the submitted abstract, I am of the opinion that the same shows a good and merchantable title to said 9.77 acres in Andries Kuyper, subject to the same defects in title and encumbrances on the land as were outlined in my former opinion under date of February 28, 1927.

The abstract contains no additional information respecting the title, which in any wise calls for any change in my former opinion, with the exception that it notes the payment of the December instalment of the 1926 real estate tax, but that the June

instalment is still unpaid and a lien. It also notes that the 1927 real estate tax, amount yet undetermined, is a lien.

The encumbrance estimate submitted bears No. 3980, is dated December 22, 1927, bears the certification of the Director of Finance under date of December 23, 1926, and appears to be in regular form.

The blank form of deed submitted with the abstract and encumbrance estimate contains a description of the premises proposed to be conveyed, and corresponds with the description attached to the encumbrance estimate. Since the deed is not further prepared or executed, this department cannot pass upon the same.

The abstracter's certificate shows no examination made in the United States court, and that the examination was made in the name of record owners only, and only for the period during which each one respectively held said title.

The abstract of title, encumbrance estimate and blank deed form are returned herewith.

Respectfully,

EDWARD C. TURNER, *

Attorney General.

573.

FEES—TAXED IN FAVOR OF MAYORS UNDER SECTION 4270, GENERAL CODE; AND ERRONEOUSLY DEPOSITED IN THE CITY TREASURY MAY BE ALLOWED BY THE LEGISLATIVE BRANCH OF CITY AND PAID TO MAYORS CLAIMING SAME.

SYLLABUS:

1. *Claims for fees, by mayors of cities where such fees have been taxed in favor of such mayors as provided by section 4270, General Code, and which have been erroneously deposited in the city treasury may be allowed by the legislative branch of the city government and paid to such mayors.*

COLUMBUS, OHIO, June 6, 1927.

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

GENTLEMEN:—I am in receipt of your communication requesting my opinion as follows:

“In the case of *State ex rel. vs. Nolte*, 111 O. S. 486, the Supreme Court decided that mayors of cities were entitled to fees in state cases tried by them.

Prior to the date of this decision and subsequent to the amendment of section 4270 G. C., 108 O. L. 1203, such fees were paid into the city treasuries in accordance with the law as construed by the Attorney General in Opinion No. 1393 to be found at page 735 of the opinions for 1920.

Since the decision such mayors have retained fees in state cases and may have filed claims for those erroneously deposited in the city treasuries. Some of these claims have been allowed and paid. The question now arises whether such claims not paid may be legally allowed and paid at this date in view of the decision of the United States Supreme Court on March 7th, 1927, in the case of *Tumey vs. State of Ohio*.”

Section 4270, General Code, as amended (108 v. Part II, 1208) became effective on June 20, 1920. This section provides as follows: