

2309.

APPROVAL—ABSTRACT OF TITLE AND OTHER INSTRUMENTS, PROPOSED PURCHASE, STATE OF OHIO, THROUGH OHIO STATE UNIVERSITY, FROM MARY HORTON KING, COLUMBUS, OHIO, CERTAIN DESCRIBED STRIP OF GROUND, WEST SIDE OF NEIL AVENUE TO WEST SIDE OF KING AVENUE, COLUMBUS, FRANKLIN COUNTY, OHIO, PURCHASE PRICE \$300.00.

COLUMBUS, OHIO, April 14, 1938.

HON. CARL E. STEEB, *Business Manager, Ohio State University, Columbus, Ohio.*

DEAR SIR: There have been submitted for my examination and approval an abstract of title, warranty deed form and contract encumbrance record No. 20, relating to the proposed purchase by the University for and in the name of the State of Ohio, of a parcel of real estate owned of record by one Mary Horton King in the city of Columbus, Franklin County, Ohio, and more particularly described as follows:

Being a strip of ground extending along the north side of William N. King's Neil Avenue Subdivision and extending from the west side of Neil Avenue to the west side of Michigan Avenue in the City of Columbus, Ohio, and being one (1) foot wide and being known as a one (1) foot reserve in said addition as the same is numbered and delineated upon the recorded plat thereof of record in Plat Book No. 7, Page 96, Recorder's Office, Franklin County, Ohio.

Upon examination of the abstract of title submitted to me, which abstract of title is certified by the abstractor under date of March 25, 1938, I find that said Mary Horton King has a good and indefeasible fee simple title to the above described parcel of land and that she owns and holds the same free and clear of all encumbrances except the taxes on this property for the last half of the year 1937 amounting to \$1.35 and except the taxes on the property for the year 1938 which became a lien thereon on the 10th day of April, 1938.

In this connection, it is noted that under date of March 15, 1929, one Milton G. Rich obtained a judgment by confession against one "Mrs. M. H. King" in the sum of \$400.00 with interest and costs,

by the consideration of the Common Pleas Court of Franklin County, Ohio, in Case No. 121441 on the docket of said court. It may well be doubted whether the "Mrs. M. H. King," the judgment debtor in the case above referred to, was and is the Mary Horton King who owns the property here under investigation. However this may be, it does not appear from the abstract of title or from any other information at hand, that any execution was issued on the judgment against "Mrs. M. H. King" in the case above noted. In this situation, it follows that even though the judgment debtor in this case was and is the person known as Mary Horton King, the owner of the property here in question, the lien of said judgment on the property here under consideration and on other property of the judgment debtor in this county has long since expired; and the judgment debtor owns and holds this property free and clear of any lien or encumbrance as far as this judgment is concerned. This conclusion follows from a consideration of Section 11663, General Code, which among other things, provides that if execution on a judgment rendered in a court of record in this state be not sued out within five years from the date of the judgment, such judgment shall be dormant, and cease to operate as a lien upon the estate of the judgment debtor.

In any view, therefore, I am of the opinion, as above stated, that Mary Horton King, the owner of record of the property here under investigation, owns and holds the same free and clear of all encumbrances except the tax liens above noted.

With the abstract of title above referred to, there has been submitted to me a deed form of a warranty deed to be executed by Mary Horton King, a widow, conveying the above described property to the State of Ohio. The form of this proposed deed is such that the same, when it has been properly executed by said Mary Horton King, will be sufficient to convey this property to the State of Ohio by full fee simple title with a covenant of warranty that the property is free and clear of all encumbrances whatsoever "except the taxes and assessments due and payable in June, 1938, and thereafter." From this exception contained in the warranty clause, I infer that some agreement has been entered into by and between yourself and Mary Horton King that she is not to be required to pay the taxes which are now a lien upon the property.

Inasmuch as this deed form has not been executed as a completed deed, the deed, when executed and acknowledged by Mary Horton King, should be submitted to this office for approval before the transaction is closed for the purchase of this property by the delivery to her of the warrant covering the purchase price of the property.

Upon examination of contract encumbrance record No. 20, which has been submitted as a part of the files relating to the purchase of this property, I find that the same has been properly executed and that there is shown thereby a sufficient balance in the interest and endowment fund standing to the credit of the Ohio State University to pay the purchase price of this property, which purchase price is the sum of \$300.00.

Inasmuch as the purchase price of this property, in the amount above stated, is to be paid from interest on the endowment fund of the University, no approval of this purchase by the Controlling Board was or is necessary.

I am herewith returning to you said abstract of title, warranty deed form and contract encumbrance record No. 20 for your further consideration in closing the transaction for the purchase of this property.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

2310.

APPROVAL—BONDS, CITY OF CAMPBELL, MAHONING COUNTY, OHIO, \$4,000.00, PART OF ISSUE DATED MAY 15, 1935.

COLUMBUS, OHIO, April 14, 1938.

The Industrial Commission of Ohio, Columbus, Ohio.

GENTLEMEN :

RE: Bonds of City of Campbell, Mahoning County,
Ohio, \$4,000.00.

The above purchase of bonds appears to be part of an issue of bonds of the above city dated May 15, 1935. The transcript relative to this issue was approved by this office in an opinion rendered to your commission under date of August 6, 1937, being Opinion No. 982.

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

Respectfully,

HERBERT S. DUFFY,
Attorney General.