

The release of the mortgage shown at section 8 of the first part of the abstract is in defective form, but as the note secured by the mortgage has been long past due, no action could be maintained upon same. The release shown at section 14 is also defective but shows that the notes secured by the mortgage were undoubtedly paid.

Attention is directed to the restrictions in the conveyance shown at section 1 of the first continuation wherein are found restrictions for a period of twenty-five years against the use of the premises for the erection of any buildings to be used for slaughter houses and the killing of animals, or the use of said premises for the sale of intoxicating liquors or malt beverages.

The abstract states no examination has been made in the United States District or Circuit Courts, nor in any subdivision thereof.

Taxes for the year 1923, although as yet undetermined, are a lien against the premises.

It is suggested that the proper execution of a general warranty deed by Lydia Schaffer, and husband if married, will be sufficient to convey the title to said premises to the State of Ohio when properly delivered.

Attention is also directed to the necessity of the proper certificate of the Director of Finance to the effect that there are unincumbered balances legally appropriated sufficient to cover the purchase price before the purchase can be consummated.

The abstract submitted is herewith returned.

Respectfully,

C. C. CRABBE,

Attorney-General.

763.

APPROVAL, BONDS OF BELMONT COUNTY, \$25,000.00, TO CONSTRUCT A BUILDING AND REPAIR BUILDINGS AT BELMONT COUNTY HOME.

COLUMBUS, OHIO, September 22, 1923.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

764.

SECURITIES—NOT PREDICATED ON REAL ESTATE UNLESS SECURED BY LIEN UPON SUCH REAL ESTATE SECTION 6373-14 G. C. CONSTRUED.

SYLLABUS:

Securities are not predicated on real estate within the meaning of section 6373-14 of the General Code unless they are secured by a lien upon such real estate.

COLUMBUS, OHIO, September 22, 1923.

HON. CYRUS LOCHER, *Director of Commerce, Columbus, Ohio.*

DEAR SIR:—Acknowledgment is made of your letter of August 24, 1923, in which you inquire in substance:

First: Whether it is the duty of the Division of Securities to accept an affidavit for exemption from a real estate company which proposes to sell stock and construction bonds for the purpose of purchasing land and erecting buildings thereon.

Second: Where the issuer disposes of securities before any real estate has been acquired and pays a commission out of the proceeds for the sale of stock, are such securities 'predicated on real estate' within the meaning of Section 6373-14?"

Section 6373-14 of the General Code provides that that section shall not be applicable in the case of a real estate or building company all of whose property upon which such securities are predicated, is located in this state."

The New Standard Dictionary defines the word "predicated" as follows:

To found, as an argument, proposition, or conclusion; derive, base, establish."

The purpose of the act of which this section is a part is to surround the sale of securities with certain safeguards, and the provisions of the act should be construed liberally with that in mind, and exceptions to the provisions of the act should receive a strict construction and not be extended beyond the plain and explicit terms of the act. It is evident from the language quoted that in the case of a real estate or building company, only those securities are to be exempted when two conditions are complied with. First, that such securities be predicated upon certain property; and, second, that the property be located in the state of Ohio. It cannot be said that stock in a corporation sold for the purpose of purchasing real estate or of improving the same is in any sense predicated upon the property proposed to be acquired. It is predicated rather upon the intention of the officers of the corporation to make some such use of it. In the case of construction bonds, such bonds unless secured in some way upon the specific property in question are merely general obligations of the corporation and are not predicated upon the property of the corporation in any sense of the word. Unless the bonds in question are in some way secured by a lien upon the property they are not predicated upon the property, and therefore cannot be exempted under the terms of this section.

You are therefore advised:

First: That it is not the duty of your department to accept the affidavit and exempt the issuer from securing a certificate of compliance.

Second: Such securities are not predicated on real estate within the meaning of section 6373-14.

Respectfully,
C. C. CRABBE,
Attorney-General.