

"The resolution or ordinance provided for in this section shall provide for the levying of a tax sufficient in amount to pay the interest on and retire at maturity all of the bonds covered by said resolution or ordinance but the amount of the tax to be levied in any year may be reduced by the amount to be available for such purposes from special assessments, revenues and surplus funds of public utilities, any surplus in the fund from which such bonds are to be retired, or other moneys specifically assigned by law for such debt charges and not otherwise pledged or obligated."

Perhaps a consideration of this language standing alone might raise the inference that the amount of tax necessary to be levied to pay the interest on and retire at maturity an issue of bonds may be reduced as a result of unexpended balances existing in some other bond fund which are no longer needed for the purpose of such other issue, but a consideration of the provisions of the Budget Law precludes such a construction.

In view of the foregoing and in specific answer to your question, it is my opinion that the unexpended balance in a bond fund which is no longer needed for the purpose for which such fund was created shall be transferred to the specific sinking fund or bond retirement fund from which such bonds are payable. In the event the amount of such unexpended balance exceeds the amount required to meet the principal and interest payments due on such bonds during any given year, there is no authority to apply the excess toward the payment of interest and principal of other bond issues as long as any of the bonds which produced this excess remain outstanding.

Respectfully,

GILBERT BETTMAN,

*Attorney General.*

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2043.

APPROVAL, ABSTRACT OF TITLE RELATING TO PROPOSED PURCHASE OF A CERTAIN TRACT OF LAND IN CITY OF COLUMBUS, FRANKLIN COUNTY, OHIO.

COLUMBUS, OHIO, JUNE 28, 1930.

*The State Office Building Commission, Columbus, Ohio.*

GENTLEMEN:—There has been submitted for my examination and approval an abstract of title, two certain warranty deeds and encumbrance estimate No. 628, relating to the proposed purchase of a certain tract and parcel of land in the city of Columbus, Franklin County, Ohio, and being more particularly described as follows:

"Being twenty-eight and one-fourth ( $28\frac{1}{4}$ ) feet off of the South side of fractional Inlot Number One Hundred and Twenty-three (123) in said city of Columbus, Ohio, as the same is numbered and delineated upon the recorded plat thereof, of record in Deed Book 'F', page 332, Recorder's Office, Franklin County, Ohio; together with all the rights, privileges, easements and appurtenances thereunto belonging, and especially all the right, title, interest and estate of the grantor under and by virtue of a certain land contract dated December 10, 1920, by and between Harry D. Freeman and C. C. Philbrick and Thaddeus H. Brown and Marie T. Brown, and now recorded in the Recorder's Office, Franklin County, Ohio, in Volume 18 of Miscellaneous Records, page 100."

Upon examination of the abstract of title submitted, which is certified by the abstractor under date of June 11, 1930, I find that James M. Butler has a good and indefeasible title to the underlying fee to the above described property, subject to the outstanding interest created by a ninety-nine year lease, renewable forever, executed by said James M. Butler and wife to one Foster A. Silbernagel under date of May 17, 1923, which lease, and the estate and interest created thereby, has since been sold and conveyed by said Foster A. Silbernagel, his wife joining with him in the conveyance, to Samuel N. Summer, who is now the owner and holder of the record title to the interest and estate under said lease.

The above described property is subject to the following encumbrances:

1. Under date of September 28, 1929, said James M. Butler, his wife joining with him in the conveyance, executed a mortgage deed to the above described property to the Ohio Building and Loan Company to secure a certain promissory note of even date therewith in and for the sum of eight thousand dollars (\$8,000.00), payable on or before three years after the date of said note, with interest thereon from date at  $6\frac{1}{2}\%$  per annum. This mortgage is not satisfied of record, and the same to the extent of the amount of money remaining due upon the note secured thereby is a lien upon this property.

The mortgage above noted is the only uncanceled mortgage shown by said abstract. I am advised, however, that since the certification of said abstract said James M. Butler has executed another mortgage upon said property to secure the payment of a promissory note in the sum of five thousand dollars (\$5,000.00), and that this mortgage is likewise one executed to the Ohio Building and Loan Company. This mortgage is a lien upon the above described property to the extent of the amount of money remaining unpaid upon the promissory note secured by said mortgage.

2. The property here in question and the interest of Samuel N. Summer therein is subject to an outstanding lease owned and held of record by one William Thomas Hampton. This lease is one executed by Samuel N. Summer under date of July 27, 1927, by which there is leased to said William Thomas Hampton the storeroom known as 37 South Front Street for the term of three years from the first day of August, 1927, which term is to be fully completed and ended on the thirty-first day of July, 1930.

3. Said property and the interest of said Samuel N. Summer therein is subject further to a lease executed by said Samuel N. Summer to one Helen Wilson under date of March 12, 1929, said lease being one for the full term of three years from the first day of March, 1929, the same being completed and ended on the twenty-ninth day of February, 1932.

In this connection it may be observed that if the property here in question, or any part thereof, is in the actual occupancy of any other person or persons the purchaser of said property is required to take knowledge of the rights of said occupants whatever they may prove to be.

4. An examination of the abstract shows that this property is subject to the lien of the following taxes and assessments. The taxes for the last half of the year 1929, amounting to the sum of two hundred fourteen dollars and one cent (\$214.01) and which are due and payable in June, 1930, are unpaid and are a lien upon this property. The taxes for the year 1930, the amount of which is not yet determined, are a lien upon this property.

There remains due and unpaid a balance of forty-three dollars and sixty-seven cents (\$43.67) on the assessment levied upon said property for the improvement of Front Street.

There is an assessment upon this property for the Front Street light improvement in the sum of one hundred forty-seven dollars and twelve cents (\$147.12), including interest at  $4\frac{1}{2}\%$ . No part of this assessment has been paid.

The taxes and assessments above noted are a lien upon this property.

With said abstract of title there has been submitted to me two warranty deeds fully executed. The first deed is one executed by James M. Butler and Mae R. Butler, his wife, conveying the above described property by fee simple title to said Samuel N. Summer, which deed contains a recital that the property conveyed is free and clear of all encumbrances except said ninety-nine year lease and the obligations thereunder and the liens created by the lessee under said lease, and except also current taxes and assessments.

Said deed has been properly executed and acknowledged by said James M. Butler and by Mae R. Butler, his wife, and the same as to form is sufficient to convey to said Samuel N. Summer a fee simple title to the above described property free and clear of the dower interest of said Mae R. Butler and free and clear of all encumbrances except as above stated.

The second of said warranty deeds above referred to is one executed by Samuel N. Summer and by Irene S. Summer, his wife, conveying the above described property to the State of Ohio. This deed has been properly executed and acknowledged by said Samuel N. Summer and by Irene S. Summer, his wife, and the same as to form conveys to the State of Ohio a fee simple title to the above described property free and clear of the dower interest of said Irene S. Summer and free and clear of all encumbrances whatsoever except the taxes and assessments due and payable on and after June, 1930.

Encumbrance estimate No. 628, which has been submitted to me with the above mentioned files, has been properly acknowledged and executed and the same shows that there are sufficient balances in the proper appropriation account to pay the purchase price of the above described property.

I am herewith returning to you said abstract of title, the warranty deeds above mentioned, and said encumbrance estimate No. 628.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

2044.

APPROVAL, BONDS OF VILLAGE OF FREDERICKTOWN, KNOX COUNTY, OHIO—\$6,593.56.

COLUMBUS, OHIO, June 28, 1930.

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

2045.

AERONAUTICS LAWS—VIOLATIONS ARE MISDEMEANORS—COURTS FOR PROSECUTION—DEATH CAUSED BY UNLICENSED PILOT OR AIRPLANE NOT BASIS FOR MANSLAUGHTER CHARGE—PUNISHMENT FOR PILOT WILFULLY DISTURBING ASSEMBLAGE.

SYLLABUS:

1. *Violations of Sections 6310-40 to 6310-43, inclusive, of the General Code, are*