

December 18, 1963



E. V. Nash, Warden
Missouri State Penitentiary
Jefferson City, Missouri

Dear Warden Nash:

This refers to your letter of July 16, 1963, and our subsequent conversations with you and others associated with the Department of Corrections concerning the purchase of Inlots 191 and 192 of the City of Jefferson, Missouri, by the State of Missouri, for the use and benefit of the Missouri State Penitentiary, pursuant to a contract which was enclosed with your letter and an appropriation which was made by the General Assembly this year.

You furnished an abstract of title for Inlots 191 and 192 which was certified by Cole County Abstract, Realty and Insurance Co., Jefferson City, Missouri, on July 12, 1963, at 5:00 p.m.

It is our opinion that the abstract shows that, as of the date of its certification, merchantable title of record was vested one-fourth in Mary Church Barrett, one-fourth in Elizabeth Church, and one-half in A. E. Blaser and Grace L. Blaser, husband and wife, subject to the lien of taxes for 1963 and to a certificate being obtained showing no federal court judgments against the owners of said real estate.

It is our information, however, that A. E. Blaser died some years ago without having been divorced from Grace L. Blaser, so that title to their one-half interest in said real estate vested in Mrs. Blaser alone. This is not shown by the abstract and we require that there be obtained and recorded and shown in the abstract an affidavit of some person familiar with the facts, showing the date and place of Mr. Blaser's death and the fact that he died without having been divorced from Mrs. Blaser.

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Further, as stated in your letter, Grace L. Blaser died in July, 1963, subsequent to her execution of the contract to sell said real estate to the State of Missouri. Her estate is being administered in the Probate Court of Cole County, Missouri, and one of her sons, Arthur E. Blaser, is the administrator. At the suggestion and request of Russell Keyes, attorney for the administrator, this office has filed a petition with the Probate Court of Cole County, Missouri, asking that the court order the administrator to execute specifically the contract to sell the decedent's one-half interest in Inlots 191 and 192 to the State of Missouri and to execute an appropriate deed for that purpose. This petition and an entry of appearance prepared by Mr. Keyes and signed by the administrator were filed on December 4, 1963. Copies thereof are enclosed herewith. We requested that the court enter an order setting this matter for hearing on December 27, 1963, and we assume that the order directing the administrator to convey the decedent's interest in this real estate will be made as a routine matter and without opposition.

We are furnishing to Mr. Keyes a copy of this letter and a suggested form of order to be entered by the court in this matter. It is our understanding that Mr. Keyes will take care of getting the order entered and will prepare the deed to be executed by the administrator. This action to obtain specific execution of the contract has been taken pursuant to Sections 473.303 to 473.313, RSMo 1959, and we call attention particularly to Section 473.310 which contains provisions with respect to the form of deed to be executed by an administrator, including the fact that the deed must be acknowledged in open court. We also note that the contract for the sale of the land and the proposed court order provide for a warranty deed. None of the proceedings with respect to the administration of Mrs. Blaser's estate are shown in the abstract of title and such proceedings, through the entry of the order to convey this real estate, should be shown therein at the expense of the estate.

We have also prepared and enclose herewith separate deeds for execution by Mary Church Barrett and Elizabeth Church conveying their interests in this real estate. Since Mrs. Barrett lives in St. Louis, it would expedite the closing of this transaction if she would execute her deed at once and deliver it to someone in Jefferson City to be held in escrow pending payment of the purchase price. You may wish to take up with Mr. Keyes or Mr. Blaser the matter of obtaining execution of this deed.

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Since it appears that all exceptions and requirements mentioned above can be readily satisfied and that it should be possible to obtain merchantable title and close this transaction shortly after the entry of the proposed court order on December 27, 1963, we believe that it is in order for you to requisition the checks in payment of the purchase price of the real estate. There should be one check payable to Arthur E. Blaser, administrator, estate of Grace L. Blaser, deceased, in the amount of Four Thousand One Hundred and Twenty-five Dollars (\$4,125.00). There should also be separate checks payable to Mary Church Barrett and Elizabeth Church, each in the amount of Two Thousand Sixty-two Dollars and Fifty Cents (\$2,062.50).

One copy of the contract which was enclosed with your letter is returned herewith. The other copy was filed with the petition which we filed in the probate court. The abstract of title has been delivered to Mr. Keyes. A copy of the proposed form of court order also is enclosed for your records.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

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Encs.