

OPINION ON TITLR

February 25th, 1939

D. A. Dorsey
Miami, Florida

Dear Sir:

Pursuant to your request, I have examined an abstract of title purporting to show the status of the title to the following described real property, situate, lying and being in the County of Dade and State of Florida, to wit:

Lots 1, 2 and 3, in Block 1 of LIBERTY CITY PARK according to the Plat thereof recorded in Plat Book 41, at page 36 of the Public Records of Dade County, Florida,

as of February 12, 1939, at 8:00 A. M.

The abstract submitted to me for examination is an abstract of title prepared by Florida Title Company under its Certificate No. 202,366, consisting of fifty-two entries.

From my examination of said abstract, it is my opinion that the fee simple title to said real property is vested in

J. GERALD LEWIS, INCORPORATED,

a Florida corporation, subject to the following objections, exceptions and encumbrances, to wit:

1. That certain bond for deed entered into on the 10th day of February, 1898, between JAMES M. GRAHAM and B. F. HAMPTON, to JULIA D. TUTTLE, which recites that JULIA D. TUTTLE purchased the S. W. $\frac{1}{2}$ of Section 11, Township 53 South of Range 41 East from said Graham and Hampton for \$800.00, and that the deed should have been made to her conveying the said land

"after the same shall be approved by the said state by the Department of Interior of the United States". On June 3, 1902, the Circuit Court of Dade County, Florida, entered an order in that certain cause brought by Henry E. Tuttle versus Lee McBride, Administrator of the Estate of Julia D. Tuttle, deceased, and Henry E. Tuttle, Receiver, to the effect that the allegations of the petition of the Interveners Graham and Hampton are true and decreed that the contract for the purchase from Graham and Hampton by Julia D. Tuttle in her lifetime "dated ____ day of _____ A. D. 189__ and recorded in Book _____ of the Records of Dade County, Florida, page _____ describing the SW $\frac{1}{4}$ of Section 11, Township 53 South of Range 41 East, be and the same is hereby cancelled", and the court ordered the clerk of the court to mark the same cancelled on the margin of the page of the record where the same is recorded, and further decreed that the status of the Interveners and the Estate of Julia D. Tuttle as to the title of said land be and the same is fully vested in said Graham and Hampton as though said agreement had never been made and recorded. This decree probably refers to the bond for deed hereinabove described. However, the description of the contract referred to is so vague, indefinite and uncertain that it is almost impossible to say with certainty what contract or agreement the decree referred to. Had the blanks been properly filled in in the decree in such manner as to show that the decree referred to the above described bond for deed, then it could be said that the bond for deed has been cancelled, by court decree, but in view of the indefinite description, it is my opinion that it is impossible to say whether this was the agreement referred to in the decree or not.

2. On April 14, 1902, Edgar M. Jones conveyed to B. B. Tatum the SW $\frac{1}{4}$ of Section 11, Township 53 South of Range 41 East. It appears from the abstract, however, that the Notary Public who took the acknowledgment of Edgar M. Jones, unmarried, failed to state the date of the expiration of his commission, as

required by the laws of the State of Florida.

3. On July 19, 1902, B. B. Tatum and Mary R. Tatum, his wife, conveyed, or attempted to convey, to James M. Merritt, the $W\frac{1}{2}$ of Lot Number 14 of Tatum's Subdivision. However, the deed executed by them had no seals on it, and was therefore invalid. On April 11, 1916, an attempt to cure this defect was made by quit claim deed executed by B. B. Tatum and wife, Letah Tatam, to Harold H. Munday. It appears from the abstract and from the affidavit of B. B. Tatum that the name of the grantee was improperly spelled in the quit claim deed, and that it should have been Harold H. Mundy. However, the fact still remains that the only basis for the chain of title to the $W\frac{1}{2}$ of Lot 14 of Tatum's Subdivision is a quit claim deed. In my opinion a special warranty deed should have been executed rather than a quit claim deed.

4. On the 21st day of June, 1904, James M. Merritt and Ada H. Merritt, his wife, conveyed, or attempted to convey, to Jennie H. Parrish the $W\frac{1}{2}$ of Lot 14 and the $W\frac{1}{2}$ of Lot 15 of Tatum's Subdivision. The deed, however, which is recorded in Deed Book 16, at page 481, of the Public Records of Dade County, Florida, contains no separate acknowledgment of the wife, as required by the statutes of the State of Florida.

5. Investigation should be made to ascertain whether or not J. Gerald Lewis, Incorporated, has filed reports and paid its corporate stock taxes, as required by the laws of the State of Florida.

6. RESTRICTIONS: It appears from the plat of Liberty City Park that there are certain restrictive covenants contained in the original plat. That are:

1. The original county zoning regulations shall be observed.
2. No lot, nor any part thereof, nor any struc-

ture thereon shall be occupied by any other race other than the negro race, except Lots 1 to 11, inclusive, in Block 1.

3. The maximum ground floor area of the principal residence buildings allowed in the subdivision is 800 sq. ft. with additional square foot ground floor area of open porches, porte cocheres and built-in garages, except that these building regulations do not apply to Lots 1 to 11, inclusive, Block 1, if business structures are erected thereon.

4. No tracts, blocks or lots shown on the plat shall be re-subdivided by metes and bounds or by any method other than properly approved and recorded plat.

5. Easements are perpetual and are reserved for utility installation and maintenance.

Inasmuch as Lots 1 to 11, inclusive, of Block 1, are specifically excepted from the second and third restrictive covenants above quoted, it cannot be said that the captioned property is subject to the restrictions common to the neighborhood.

7. COUNTY ZONING ORDINANCE: The captioned property appears to be in Dade County, Florida, but not within the corporate limits of any municipality, and is therefore subject to the provisions of the Dade County Zoning Ordinance.

8. TAXES: The state and county taxes on the property appear to have been paid through the year 1938.

9. MECHANIC'S AND MATERIALMEN'S LIENS: If any improvements have been made on the captioned property within the last ninety (90) days, investigation should be made to ascertain whether or not all bills for labor and materials have been paid as mechanics and materialmen are not required to file their liens of record for a period of ninety days after completion of the work or the last date of furnishing materials. Engineers who may have surveyed the property have a lien thereon, as well as mechanics and materialmen in the construction of a building. Inasmuch as the plat on the property was filed as recently as December 22,

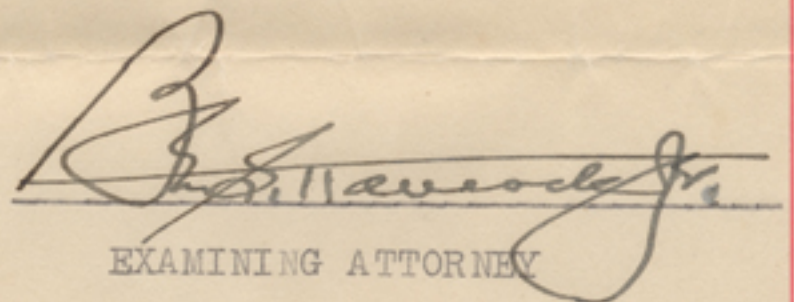
1938, investigation should be made to ascertain whether or not the engineer's fees and charges in connection with making such a plat have been paid. The engineer who made the plat appears to have been Charles G. Hannoeh.

10. QUESTIONS OF SURVEY: This opinion is subject to any and all questions of survey.

11. RIGHTS OF PARTIES IN POSSESSION: This opinion is subject to the rights of any and all persons in open and notorious possession of the property whose interest therein might not appear of record.

This opinion is based solely upon the abstract of title submitted to me for examination.

Respectfully submitted,


EXAMINING ATTORNEY

OPINION ON TITLE

Lots 1, 2 and 3, Block 1, LIBERTY
CITY PARK, according to the Plat
thereof recorded in Plat Book 41,
at page 36, of the Public Records
of Dade County, Florida

Prepared for:

D. A. DORSEY
2/25/39

BEN S. HANCOCK, JR.

ATTORNEY AT LAW
532-535 INGRAHAM BUILDING
MIAMI, FLORIDA