

ITEM

Decision No. 14655

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the matter of the application)
of the DAVIES WAREHOUSE COMPANY for)
order authorizing the issuance of)
First Mortgage Leasehold Seven Per)
Cent Sinking Fund Gold Bonds to the)
face value of \$175,000.00; notes)
payable on or before February 1st)
1928, not to exceed a total of)
\$35,000.00; Seven Per Cent Cumula-)
tive Preferred Stock to the face)
value of \$50,000.00 and Common)
Stock to the face value of)
\$30,000.00.)

Application No. 10767

ORIGINAL

BY THE COMMISSION:

SECOND SUPPLEMENTAL ORDER

Good Cause Appearing,

IT IS HEREBY ORDERED that the Commission's order of March 3rd, 1925 in Decision No. 14624 be, and it is hereby, modified so as to permit Davies Warehouse Company to modify Article IV of Section 4 of the mortgage or deed of trust authorized to be executed by said decision to read as follows:

The Trustee, with the approval of the company, may use and apply the moneys in said sinking fund for the purpose of purchasing bonds secured hereby in the open market or upon any exchange, at the lowest price obtainable in its opinion, not exceeding, with brokerage, however, one hundred five per cent (105%) of the par value thereof plus accrued interest, and the Trustee may, with the approval of the company, invite tenders of bonds by advertisement and by such notice as it shall deem necessary. If any moneys shall remain in said sinking fund forty (40) days prior to the next ensuing interest payment date, the Trustee with the approval of the company, may use and apply all of such money for the purpose of redeeming bonds as in Article III hereof provided. All money paid into the sinking fund shall be held by the Trustee as banker in general account, without liability upon the said Trustee for the payment of interest thereon (subject, however, to the said right of the Trustee to apply it to the purchase of bonds) and all moneys at any time constituting a part of the sinking fund, or held for its benefit, shall be deemed to be included within the terms "mortgaged property" or "trust estate" used herein; and if the mortgaged property

shall be sold under the power of sale herein conferred or under any decree of court, then the moneys in the sinking fund shall be dealt with as if the same were a part of the proceeds of such sale.

and to modify Article V, Section 3 of said mortgage or deed of trust to read as follows:

When said building has been fully constructed and is ready for occupancy and all indebtedness incurred by the company in its construction has been fully paid and discharged, and the time within which to file mechanic's liens on account or by reason of its construction has expired, and no such liens have been filed, or if filed, have either been fully paid and discharged or have been declared to be invalid by final judgment, then and not until then said building shall be deemed to be completed as said term is used in this section. Upon the completion of said building as aforesaid, the company shall file a certificate or certificates signed by its president or vice-president and its secretary, and by the architect in charge of the construction of said building, certifying and declaring that said building has been so completed. Upon the filing of such certificate or certificates and upon the payment of twenty-five per cent (25%) of the money withheld by the trustee, any and all cash in said Special Trust Fund shall be paid to the company immediately thereafter.

IT IS HEREBY FURTHER ORDERED that the Commission's Decision No. 14624, dated March 3, 1925 shall remain in full force and effect except as modified by this Second Supplemental Order in the above entitled matter.

Dated at San Francisco, California, this 11th day of March, 1925.

H. K. Brundage
C. Seavey
Egerton Shore

Commissioners.