executed and acknowledged by said Mattie V. Flower, who is a single person, and the form of this deed is such that the same conveys said lot subject to the reservation and exceptions therein noted to the State of Ohio, with a covenant of warranty that the same is free and clear of all encumbrances whatsoever. Each and all of the deeds above referred to are accordingly approved by me.

Contract encumbrance record No. 26, which has been submitted as a part of the files relating to the purchase of this property, has been properly executed and the same shows a balance in the appropriation account to the credit of your department, otherwise unencumbered, sufficient in amount to pay the purchase price of this property, which purchase price is the sum of $2600.00. Contract encumbrance record No. 26 is accordingly likewise approved by me. It is noted in this connection from recitals contained in said contract encumbrance record, as well as from other information at hand, that the purchase of this property has been approved in due course by the Controlling Board and that said Board has released from the appropriation account the money necessary to pay the purchase price of this property.

I am herewith returning to you said contract encumbrance record (which likewise covers Lots Nos. 7 and 8 in said allotment which you are purchasing from Lillian Olsen), the several deeds above referred to, contract encumbrance record No. 26 and other files relating to the purchase of said Lot No. 9.

Respectfully,
HERBERT S. DUFFY,
Attorney General.

583.

ARCHITECTURAL FIRM — PARTNERSHIP LIABILITY—JUDGMENT AND EXECUTION—STATE BOARD OF EXAMINERS OF ARCHITECTS POWERS.

SYLLABUS:

1. *Each partner in an architectural firm is personally and individually liable for the entire amount of the partnership obligations. However, after reducing claims against the partnership to judgment, the judgment creditor may proceed against the non-partnership property of any individual partner in full satisfaction of his judgment.*

2. *The State Board of Examiners may adopt a resolution prohibit-*

ing the use of the terms "Inc." or "Co." after the name of an individual architect.

COLUMBUS, OHIO, May 11, 1937.

State Board of Examiners of Architects, A. I. U. Building, Columbus, Ohio.

GENTLEMEN:

I have your letter of recent date in which you request my advice on the questions which I have paraphrased as follows:

> 1. What is the extent of the liability of either or both of the partners in an architectural firm for obligations incurred in the name of the partnership, or for any judgment rendered against the partnership for firm obligations?
>
> 2. May a duly registered individual architect use the professional designation (a) "Henry Brown, Inc." or (b) "Henry Brown & Co.?"

The extent of the liability of partners for partnership obligations is treated in Mechem's Elements of Partnership, Second Edition, Section 313, in the following language:

> "Although the obligation of partnership liabilities may be in nature joint, it does not follow that the liability when once judicially established must, by the creditor, be jointly or ratably enforced against the partners. The liability may be joint, but it is also entire. Each partner, therefore, is personally and individually liable for the entire amount of all such obligations, whether arising from contract or tort, as are binding upon the firm. His liability, in ordinary partnerships, is not limited by the amount of his contribution to the partnership capital, but extends to his entire property; and it makes no difference what may be his share or interest in the partnership business, or whether he is an active or a secret partner, or whether the other partners are pecuniarily responsible or not; he is liable in solido for the partnership obligations."

The liability of partners for firm obligations is also succinctly stated in 30 O. Jur., 1068, as follows:

> "At common law, partnership contracts are joint obligations of all the partners. They are neither several, nor joint and

> several, but joint only. Partners are engaged in a joint enterprise for a joint profit; they are joint principles in every transaction. It is this characteristic of the partnership relation that constitutes at once its chief advantage to the firm creditors and its chief disadvantage to the partners; for each partner as a joint obligor is individually liable for the entire partnership obligations."

The joint obligation of partners for firm liabilities as stated in the foregoing excerpt from Ohio Jurisprudence is supported by the decision in *Simon* vs. *Rudner,* 43 O. App., 38, in which case the court concluded as follows:

> "It is therefore the judgment of this court that a partnership obligation in Ohio is joint, and not joint and several."

You will note from the text statements above quoted that the individual liability of the partners is not governed by his contribution of capital, property interest or proportionate share in the net profits of the firm. The principle that the liability of individual partners to third parties is not governed by the secret provisions of partnership agreements is substantiated in the case of *Ross, et al.* vs. *Couden,* 22 O. App., 330, the second syllabus of which case held:

> "2. There is no limit to liability to which general partners bind themselves."

The liability of an individual partner for the satisfaction of judgments rendered against the partners upon firm obligations is also discussed in Mechem's Elements of Partnership, Second Edition, Section 314, as follows:

> "Moreover, if judgment be obtained against the partners upon an obligation existing against the partnership, the execution, though in form against all, may, unless otherwise provided by statute, be levied directly upon the individual property of any one or more of the partners without regarding or exhausting the firm property. The creditor, further, is under no obligation to levy against all the partners ratably, but may select any one or more and levy execution against him or them until the judgment is satisfied, leaving all questions of contribution to be settled afterwards between the partners themselves."

Furthermore the liability of an individual partner to satisfy in full, a judgment rendered against the partnership is stated in 30 O. Jur., 1071, as follows:

> "The Ohio statutes have not expressly altered the essential joint nature of a partnership contract. They have, however, markedly modified the procedure on such contracts. Although all partners are still necessary parties, in case some joint obligors are not served, the action may now proceed against those served. Judgment may now be given for or against one or more parties plaintiff or defendant, and execution may be levied on the joint partnership property of all the defendants, or the separate property of those served, * * *."

In answer to your first question my categorical answer is that, in the ordinary partnership, each partner is personally and individually liable for the entire amount of the partnership obligations. However, after reducing claims against the partnership to judgment, the judgment creditor may proceed against the non-partnership property of any individual partner in full satisfaction of his judgment.

As regards the use of the word "incorporated" or "company" by an individual architect, I direct your attention to Section 8623-4, subsection (1), General Code, which provides:

> "Any number of natural persons, not less than three, a majority of whom are citizens of the United States, may become a corporation, by subscribing, acknowledging and filing in the office of the Secretary of State, Articles of Incorporation, hereinafter called Articles, setting forth:
>
> 1. The name of the corporation, which may begin with the word 'the' and shall end with or include 'company,' 'co.,' 'corporation,' 'incorporated' or 'inc.,' except as otherwise provided by law."

The foregoing statute makes it mandatory upon corporations to use the affix "Inc." or "Co." after the corporate name. There is no express statutory provision against using the term "Inc." in connection with an individual name, and consequently, in the ordinary case, it would not be unlawful to use either of these terms after a proprietorship name. However, I feel that your Board has the power to adopt a resolution prohibiting the use of "Inc." or "Co." after the name of an individual architect. Such practice is misleading and wholly unworthy of those proffering professional services, and your board is the only

agency that can act as a deterrent to this dishonest practice.

I must respectfully decline to suggest any form of partnership agreement that your Board would require as being in accordance with the laws governing the State Board of Architects. You can readily appreciate that partnership agreements vary in each case and the preparation of these agreements is probably the work of private counsel. Furthermore, there is nothing in the statutes regulating the practice of architecture that would require any extraordinary consideration in drawing an agreement for the formation of an architectural firm.

Respectfully,

HERBERT S. DUFFY,

Attorney General.

584.

COUNTY AUDITOR—REAPPRAISAL OF REAL PROPERTY—CLERKS AND EXPERT EMPLOYES—EXPENSE BY COUNTY COMMISSIONERS—APPLICATION TO TAX COMMISSION, WHEN—BINDING ON COUNTY COMMISSIONERS, WHEN.

SYLLABUS:

The provisions of Section 5548, *General Code, relating to the compensation of deputies, clerks, experts or other employes appointed or employed by the county auditor in making the appraisal of real property in the county, as provided for by said section, are not repealed or otherwise affected by the later provisions of the present Budget Law (Secs.* 5625-26 *to* 5625-33, *inclusive, G. C.); and if the county auditor finds that the county commissioners have failed to provide a sufficient amount of money to pay the compensation of the necessary deputies, clerks, experts or other employes appointed or employed by him for this purpose, he may make application to the Tax Commission of Ohio for an additional allowance of money for this purpose, and such additional amount of money allowed by the Tax Commission for the payment of such compensation will on the certification thereof by the Tax Commission to the board of county commissioners of the county be final as against said county, and be a sufficient warrant for the payment of the compensation of such appointees or employes out of the general fund of the county whether the money necessary to pay such conmpensation has been appropriated by the county commissioners for this purpose or not.*