

for such services. That municipal corporations have no such power is, however, expressly recognized in the case of *Hicksville vs. Blakesley*, 103 O. S. 508. However, it does not appear that any question with respect to the home rule powers of the municipal corporation was involved or discussed in this case.

In the present state of the decisions of the Supreme Court of this state relating to the home rule powers of municipal corporations under Article XVIII of the state Constitution, the question here submitted is not one easy of solution. However, I am inclined to the view that the question as to how a municipal corporation may proceed to and dispose of bonds issued by it for local purposes is one to be decided by such municipal corporation in the exercise of the authority conferred upon it by the home rule provisions of said article of the state Constitution, and that any municipal corporation may, by charter provision or by ordinance, provide for publishing notices of the sale of bonds issued by such corporation in a publication such as that referred to in your communication, in addition to the publication of such notices in the manner provided by Section 2293-28, General Code.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1925.

REAL ESTATE LICENSE—CHANGE FROM PARTNERSHIP TO CORPORATION—MUST GET NEW BROKER'S LICENSE.

SYLLABUS:

Where a partnership composed of three members has heretofore been licensed as a real estate broker and thereafter a corporation is formed by the partners for the purpose of engaging in the real estate brokerage business, the license of the partnership may not be transferred to the new corporation, but application must be made in the ordinary way on behalf of such corporation for a broker's license and the proper fee paid therefor.

COLUMBUS, OHIO, March 31, 1928.

HON. CYRUS LOCHER, *Director of Commerce, Columbus, Ohio.*

DEAR SIR:—This will acknowledge your recent communication as follows:

“A partnership composed of A, B & C have incorporated the A, B & C Corporation.

Request is made of the Board of Real Estate Examiners to transfer the broker's license issued to the partnership in January, 1927, to the A, B & C Corporation.

Question: Should the board require the corporation to make a new application and pay an additional fee for 1927?”

A question of somewhat similar character was submitted by you recently and the answer is found in Opinion No. 1422 of this office dated December 22, 1927. The syllabus of that opinion is as follows:

"Where a partnership of three members has heretofore made application for and been granted a real estate broker's license in the firm name and separate licenses were issued to each of the partners as brokers, upon the dissolution of such partnership, the formation of a new partnership of two of the members of the old firm and the engaging in business of the individual remaining member, licenses for the new firm and an individual license to the remaining partner shall be immediately issued by the State Board of Real Estate Examiners without charge, for the unexpired period. Such licenses are subject to renewal in the manner prescribed by Section 6373-38 of the General Code."

The conclusion reached was based upon the interpretation of the language of Section 6373-36, General Code, which is in the following language:

"The license of both the real estate broker and the salesman employed by him shall be prominently displayed in the office or place of business of the real estate broker, and no license shall authorize the licensee to do business except from the location stipulated therein. The license of each real estate salesman shall be mailed to and remain in the possession of the licensed broker by whom he is or is to be employed until cancelled, or until such licensee shall leave the employment of such broker. Immediately upon the withdrawal of a real estate salesman from the employment of a broker, the broker shall return the salesman's license to the state board of real estate examiners for cancellation. In case of any change of business location, notice in writing shall be given to the State Board of Real Estate Examiners, whereupon such board shall issue a new license or licenses for the unexpired period without charge. A change of business location without such notice and the issuance of such new licenses, shall automatically cancel the licenses theretofore issued, and affected thereby. The requirements and privileges herein provided for cases of change of business location shall also apply to cases in which any person named in a firm or corporation license shall sever his connection with the licensee and engage in business on his individual account, or in partnership with another licensee, or another person named in a firm or corporation license."

The determination of your present question likewise hinges upon the interpretation to be placed upon this section.

The section just quoted makes provision for the issuance of new licenses in certain instances without charge. My previous interpretation of the last sentence of the section was that it extended the right to secure the issuance of a new license to a case in which a partnership, having a broker's license, subsequently dissolved, and two of the members formed a new partnership and the third member engaged in business individually. My conclusion was that in each case the language of the section made the issuance of a new license automatic upon application and that no fee might be charged for the new license. The privilege of securing a license in those instances was clearly extended by the language of the last sentence of the section.

In this instance, however, a partnership, already duly licensed, seeks to have the license transferred to a corporation, which has apparently been formed by the partners. The new corporation is, of course, a separate and distinct entity and, unless it may obtain the privilege of securing a license without charge under the language of the last sentence of the section, it is apparent that it must proceed in the ordinary way to secure a broker's license, in the event that it desires to engage in

business as a real estate broker. It is specially provided that where a person named in the firm or corporation license shall sever his connection with the licensee and "engage in business on his individual account, or in partnership with another licensee, or another person named in a firm or corporation license," the requirements and privileges provided for cases of change of business location apply and I have heretofore in my previous opinion interpreted this to mean that a new license shall issue without charge on application therefor. This privilege, however, only extends where the applicant (1) engages in business on his individual account, or (2) goes into partnership with another licensee, or another person named in a firm or corporation license. Obviously, the first instance has no application here. As I construe the second instance, it is only applicable where the applicant is going into a partnership either with another licensee or someone theretofore named in a firm or corporation license. Such conclusion negatives the right to have a new license issue without charge and without the ordinary procedure in the case of the formation of a new corporation irrespective of the fact that the members or officers of the corporation may have theretofore been licensed as brokers.

I am accordingly of the opinion that where a partnership composed of three members has heretofore been licensed as a real estate broker and thereafter a corporation is formed by the partners for the purpose of engaging in the real estate brokerage business, the license of the partnership may not be transferred to the new corporation, but application must be made in the ordinary way on behalf of such corporation for a broker's license and the proper fee paid therefor.

Respectfully,

EDWARD C. TURNER,
Attorney General.

1926.

DISAPPROVAL, BONDS OF THE VILLAGE OF NORTH COLLEGE HILL,
HAMILTON COUNTY—\$30,354.48.

COLUMBUS, OHIO, March 31, 1928.

Re: Bonds of the village of North College Hill, Hamilton County—\$30,354.48.

The Industrial Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—An examination of the transcript pertaining to the above bond issue, which is a combined issue, in anticipation of the collection of special assessments on four street improvements, reveals that there was no publication of the notice of filing assessments, as required by Section 3895, General Code.

Section 3895, General Code, provides as follows:

"Before adopting an assessment made as provided in this chapter, the council shall publish notice for three weeks consecutively, in a newspaper of general circulation in the corporation, that such assessment has been made, and that it is on file in the office of the clerk for the inspection and examination of persons interested therein."

In the transcript I find a certificate by the clerk that assessment notices were served on all the property owners abutting on the improvements, with the exception of some twenty-seven persons whose addresses are unknown. The transcript also