

work was within the contemplation of the parties thereto. I believe that it is well within the authority of the Commissioners, if they so desire, to have prepared as a part of the general plan an estimate of the total cost of the project. Such being the case, it would seem entirely proper, in the preparation of that estimate, to include all of the factors of cost which must be included in connection with any estimates made as a part of the detailed plans for such parts of the improvement as are immediately contemplated. Accordingly, assuming that the general estimate in fact included the item of interest as a part of the cost, it is my opinion that such action was proper and that the Consultant Engineer is entitled to the agreed percentage upon that as well as other items making up the aggregate estimated cost.

The inquiry submitted does not raise any question concerning the legality of the contract in any other respect, and I understand the question hereinbefore discussed is the only one now raised by the County Commissioners. Accordingly, I have confined my discussion to the specific question raised.

Respectfully,
 GILBERT BETTMAN,
Attorney General.

4803.

BUILDING AND LOAN ASSOCIATION—NOTICE TO STOCKHOLDERS' MEETINGS—GIVEN IN ACCORDANCE WITH CORPORATION ACT.

SYLLABUS:

The provisions of the General Corporation Act with respect to notice of stockholders' meetings are applicable to building and loan associations.

COLUMBUS, OHIO, December 10, 1932.

HON. FRANK F. MCGUIRE, *Superintendent of Building and Loan Associations, Columbus, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

"I wish to refer you to Section 8623-44 of the General Corporation Act of Ohio, and inquire as to whether or not it is obligatory on the part of an Ohio Building association to notify its shareholders in writing of its annual meeting, regardless of the fact that the constitution and by-laws of said building association provide when and where said meeting is to be held."

Section 9643, General Code, provides that building and loan associations "may be organized and conducted under the general laws of Ohio relating to corporations, except as otherwise provided in this chapter". The chapter of the General Code with respect to building and loan associations contains no provisions with respect to the matter of notice of stockholders meetings.

Section 8623-132, General Code, being one of the sections of the General Corporation Act, provides in so far as pertinent as follows:

"When special provision is made in the General Code for the incorporation, organization, conduct or government of corporations formed for any specified purpose, this act shall not apply, but the special provision shall govern unless it clearly appears that the special provision is cumulative.

* * * * *

In view of Sections 9643 and 8623-12, supra, and the absence of provision with respect to the matter of notice of meetings of stockholders of building and loan associations, it is obvious that the provisions of the General Corporation Act must control as to this matter.

Section 8623-44, General Code, contains mandatory provisions with respect to written notices of annual stockholders meetings. Prior to the enactment of the General Corporation Act, there were no statutory requirements as to notice of annual stockholders meetings and it was held that when the regulations fixed the time and place of such meetings without requiring notice, no notice was necessary. *State vs. Bonnell*, 35 O. S. 10; *State, ex rel. vs. Kreutzer*, 100 O. S. 246.

These cases are, however, predicated upon the absence of statutory requirement, it being generally recognized that when the statute requires notice, such notice may not be dispensed with. *Fletcher's Cyclopedia of Corporations*, Vol. 3, pp. 2732-2734.

In view of the foregoing and in specific answer to your question, it is my opinion that notice of annual stockholders meetings of building and loan associations must be given in the manner provided by Section 8623-44, General Code, notwithstanding the fact that the constitution and by-laws of such associations provide when and where said meetings are to be held.

Respectfully,

GILBERT BETTMAN,

Attorney General.

4804.

APPROVAL: CONDITIONALLY, ABSTRACT OF TITLE TO LAND OF
AMBROSE E. TRUBEY, IN RICHLAND TOWNSHIP, DEFIANCE
COUNTY, OHIO.

COLUMBUS, OHIO, December 10, 1932.

HON. EARL H. HANEFELD, *Director of Agriculture, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of a corrected abstract of title, warranty deed and encumbrance record No. 41, relating to the proposed purchase by the State of Ohio of a tract of land containing 3.79 acres in Richland Township, Defiance County, Ohio, the record title to which is in one Ambrose E. Trubey, and which you have submitted to me for the purpose of supplementing the examination of the title to this property heretofore made by me as indicated in my opinion to you under date of August 29, 1932.