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1. COURT HOUSE—ALTERATION OF IMPROVEMENT—SUBJECT TO PROVISIONS OF SECTION 2343 ET SEQ., G. C.
2. PARTITION—CUTTING DOORWAY—SUCH ADDITION OR REPAIR TO COURT ROOM AS TO BRING IMPROVEMENT WITHIN SCOPE OF SECTION 2348 G. C.
3. WHERE ADDITION OR REPAIR DOES NOT EXCEED ONE THOUSAND DOLLARS, SECTION 2353 G. C. APPLIES.
4. SECTION 2343 G. C. MANDATORY—COUNTY COMMISSIONERS MUST AVAIL THEMSELVES OF SERVICES OF COMPETENT ARCHITECT OR CIVIL ENGINEER WHEN SERVICES NECESSARY.

## SYLLABUS:

1. An alteration or improvement to a court house is subject to the provisions of Section 2343 et seq. of the General Code.

2. The cutting of a doorway and the erection of a partition is such an addition or repair to a court room as to bring said addition or repair within the scope of Section 2348, General Code.

3. Section 2353, General Code, applies where the cost of the repairs or additions contemplated by Section 2343, General Code, does not exceed one thousand dollars.

4. Under Section 2343, General Code, the county commissioners must avail themselves of the services of a competent architect or civil engineer when such services are necessary to fulfill the requirements of said section.

Columbus, Ohio, April 12, 1950

Hon. Creed Jopling Lester, Prosecuting Attorney  
Knox County, Mount Vernon, Ohio

Dear Sir:

I am in receipt of your communication requesting my opinion, which reads as follows:

“I am writing you for your opinion on the following subject at the request of Knox County Officials.

"The Probate and Juvenile Court of Knox County, Ohio, is taking over additional rooms for use of his office and departments in the Knox County Court House located at Mount Vernon, Ohio.

"The rooms the Court is taking over are immediately adjacent to the rooms now occupied by the Court; and for their proper and efficient use by the Court it will be necessary to cut a doorway in the wall between the rooms now occupied by the Court and the adjacent rooms; it will also be necessary to erect a partition in one of the larger rooms thus taken over in order to divide said room into two rooms.

"Will the cutting of said doorway and the erection of said partition be such an alteration or improvement so as to bring this work under the provisions of Section 2348 of the General Code of Ohio, and, as the total cost of this alteration will be less than \$1,000.00, how will Section 2353 of the General Code of Ohio apply? Will it be necessary to employ an architect to draw up plans for same? Knox county does not have a licensed architect in its employ."

Assuming that the repair or alteration contemplated is of sufficient magnitude to require the letting of a contract, the questions advanced in your communication will be answered separately.

The first question presented is:

Will the cutting of a doorway and the erection of a partition be such an alteration to a court room so as to bring this work under the provisions of Section 2348, General Code.

Before rendering an opinion upon this specific question, your attention is directed to Section 2343, General Code, which states that the county commissioners are required, when it becomes necessary to erect a public building, or to add to, alter or repair an existing one, to have full and accurate plans made showing all necessary details of the work and materials required, with working plans suitable for the use of mechanics and builders, accurate bills showing the exact amount of the different kinds of materials needed, full specifications of the work to be performed, and such directions as will enable a competent builder to carry them out, together with a full and accurate estimate of each item of expense and of the aggregate cost.

Ohio Jur., Vol. 11, p. 500, in commenting upon the language above which is taken from Section 2343, has this to say:

“\* \* \* These requirements are imperative, and must be observed before the commissioners can let a contract or properly advertise for proposals for a contract.”

Thus informed of the mandatory provisions of Section 2343, General Code, reference is made to Section 2348, General Code, which relates thereto and which deals specifically with the building of a court house or jail, or an addition thereto or alteration, repair or improvement thereof. This section is quoted as follows:

“If the plans, drawings, representations, bills of material and specifications of work, and estimates of the cost thereof in detail and in the aggregate, required in the preceding sections relate to the building of a court house or jail, or an addition to or alteration, repair or improvement thereof, they shall be submitted to the commissioners, together with the clerk of the court, the sheriff and probate judge, and one person to be appointed by the judge of the court of common pleas, for their approval. If approved by a majority of them, a copy thereof shall be deposited with the county auditor, and kept in his office.”

The provisions of the sections of the General Code to which I have referred unquestionably indicate a legislative intent that repairs and alterations to the county buildings named therein shall be made only in the manner provided thereby, and the statement of facts contained in your communication presents a situation which would seem to fall directly within the scope of these statutes.

I am therefore of the opinion that the erection of a partition and the cutting of a doorway is such an alteration to a court room as to bring this work under the provisions of Section 2348, General Code.

Referring again to your communication, the second question presented is:

If the aggregate cost of an alteration or improvement is less than \$1000 as estimated by compliance with Section 2343, General Code, how will Section 2353, General Code, apply?

Section 2353, General Code, reads as follows:

“When the estimated cost of a public building, bridge or bridge substructure or of making an addition to or repair thereof does not exceed one thousand dollars, it shall be let as hereto-

fore provided, but notice of the letting need be given for only fifteen days, by posting on a bulletin board or by writing on a blackboard in a conspicuous place in the county commissioners' or auditor's office, showing the nature of the letting and when and where proposals in writing will be received. Plans or specifications, or both as hereinbefore provided shall be kept on file during the fifteen days and open to public inspection."

The purpose of this section is to excuse the county commissioners from advertising in newspapers of the county for bids when the estimated cost determined pursuant to Section 2343, General Code, does not exceed \$1000. However, this section does not excuse the county commissioners from fulfilling any of the other preliminary requirements contained in Section 2343, et seq., General Code. See *State ex rel. v. Commissioners*, 2 O.N.P. (N.S.), 261.

It may also be noted with respect to Section 2353, General Code, that the term "alteration" is not contained therein, but said section refers merely to additions and repairs. However, it is unnecessary to go into whether or not said term was purposely omitted from the statute, because the erection of a partition is undoubtedly an addition, which would bring your statement of facts within the purview of the statute.

Your third question involves the necessity of employing an architect to draw up plans for the proposed improvement, and again your attention is directed to Section 2343, General Code, which says that said plans shall be made by "a competent architect or civil engineer." With this in mind, reference is made to Opinions of the Attorney General for 1927, p. 2550, where the first branch of the syllabus reads as follows:

"Under the provisions of Section 2343, General Code, the board of county commissioners of a county is authorized to employ an architect for the purpose of making such preliminary plans, drawings and sketches as may be necessary for the purpose of enabling such board to adopt a definite plan for the erection or construction of a county building or building improvement, and for the purpose of enabling said board to determine the required amount of a proposed bond issue for constructing such building or building improvement."

It is accordingly my opinion then, in specific answer to your question:

1. That an alteration or improvement to a court house is subject to the provisions of Section 2343 et seq., of the General Code.

2. That the cutting of a doorway and the erection of a partition is such an addition or repair to a court room as to bring said addition or repair within the scope of Section 2348, General Code.

3. That Section 2353, General Code, applies where the cost of the repairs or additions contemplated by Section 2343, General Code, does not exceed one thousand dollars.

4. Under Section 2343, General Code, the county commissioners must avail themselves of the services of a competent architect or civil engineer when such services are necessary to fulfill the requirements of said section.

Respectfully,

HERBERT S. DUFFY,  
Attorney General.