

transcript, and find that the bond ordinance providing for the above issue of bonds, which are bonds to pay the city's portion of the cost of certain improvements, has not been published.

Section 4227, General Code, provides that "ordinances of a general nature, or providing for improvements, shall be published as hereinafter provided before going into operation."

Sections 4228 and 4229, General Code, provide the manner and length of time of publishing such ordinances.

In the case of *Knauss vs. Columbus*, 13 O. D. (N. P.) 200, it was held that an ordinance which authorizes a municipal corporation to issue bonds for the purpose of obtaining money to pay for a dam, for raising bridges, constructing roadways and acquiring land and materials for waterworks, is an ordinance of a general nature within the meaning of Section 4227, General Code.

In view of the above holding, it is my opinion that the ordinance providing for the above issue of bonds must be published in accordance with Sections 4227, 4228 and 4229, General Code.

For the foregoing reasons, I am compelled to advise you not to purchase the above issue of bonds.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1422.

REAL ESTATE BROKERS—DISCONTINUANCE OF PARTNERSHIP— RENEWAL OF LICENSE DISCUSSED.

SYLLABUS:

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.

COLUMBUS, OHIO, December 22, 1927.

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

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

"A, B and C are partners and do business under the name of The A, B and C Realty Company. The partnership made an application for a real estate broker's license and all three of the partners made proper application for real estate broker's license. A license was issued to The A, B and C Realty Company and named therein all three of the partners. For this the partnership paid a fee of \$10.00, and \$2.00 for each after the first partner, to-wit, \$4.00 additional.

On the 15th day of November, this partnership was dissolved. A and B have formed a new partnership under the name of The A and B Realty Company. The A and B Realty Company has requested that the license of The A, B and C Realty Company be cancelled and a new one issued to The A and B Realty Company, and contend that this should be done without extra charge for the balance of the year, and at the first of the year the A and B Realty Company will be entitled to a renewal.

C has made application to have his original license issued in connection with The A, B and C Realty Company canceled and that a new one be issued to him as an individual broker for the balance of the year without extra charge, and to renew his license for next year.

Will you please advise us whether in the above situation the contentions of A, B and C are correct, or whether when a partnership is dissolved new licenses shall be issued and the original fee charged?"

Section 6373-36 of the General Code 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."

You will observe that, upon the change of business location, the old license of either a person, firm or corporation as a broker is automatically canceled and it is provided that the board shall issue a new license or licenses for the unexpired period without charge. The last sentence of the section, in my opinion, answers your inquiry. By the terms "requirements and privileges" are doubtless meant the necessity of giving notice to the state board and the obligation of the board to issue a new license or licenses immediately, together with the privilege of having the license or licenses issued without charge. These requirements and privileges are extended in any case in which any person named in a firm 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 license. Manifestly where one partner in a firm withdraws, the original partnership to which the original license was issued is dissolved and the remaining firm is a new partnership entirely separate and distinct as an entity from the old. In the case you present, the A and B Realty Company is a separate and distinct entity from the A, B and C Realty Company,

but, all of the partners having passed the original examination, the provisions of Section 6373-36 make the issuance of a firm license to a new partnership mandatory and further direct that the new license shall issue without charge. Likewise, in the case of C, who has retired from the original partnership and is engaging in business as an individual broker, the same rules are applicable. His name having been included in the original license issued to the A, B and C Realty Company, as a firm, for the current year, he is entitled to have a new license issued to him as an individual broker. Each of these licenses would, of course, be only for the unexpired period.

Since both the new firm and the individual broker C would thereupon have exactly the same status as if they had applied for and obtained licenses in their present status, their respective rights of renewal are the same as any other licensees. Accordingly, they should be renewed upon application therefor without recommendation, examination or inquiry, excepting as provided in Sections 6373-39 to 6373-44, inclusive, of the General Code.

Specifically answering your question, I am of the opinion that 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.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1423.

COUNTY COMMISSIONERS—PAYMENT FOR PRELIMINARY ROAD SURVEYS AFTER JANUARY 2, 1928.

SYLLABUS:

1. *A board of county commissioners acting under the provisions of Sections 1191 and 1195, General Code (effective January 2, 1928), may enter into an agreement with the Director of Highways and Public Works to pay some part or all of the cost and expense of surveys and other preliminary expenses incident to the improvement of a state highway.*

2. *After the second day of January, 1928, the county may pay a portion or all of the cost and expense of surveys and other preliminary expenses incident to the improvement of a state highway only in those instances where the improvement is being constructed under the provisions of Section 1191, General Code, 112 O. L. 469.*

COLUMBUS, OHIO, December 22, 1927.

HON. GEORGE F. SCHLESINGER, *Director of Highways and Public Works, Columbus, Ohio.*

DEAR SIR:—Receipt is acknowledged of your communication of recent date requesting my opinion, as follows: