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1. FACTORY AND BUILDING INSPECTION—"OTHER ENCLOSURES"—SECTION 12600-73 G. C.—INCLUDE CEILINGS AS WELL AS WALLS, PARTITIONS, STAIR AND ELEVATOR ENCLOSURES.
2. ACOUSTICAL TILE—APPLIED OR AFFIXED TO CEILINGS—PART OF SUCH CEILINGS— ACOUSTICAL TILE FOR SOUNDPROOFING PURPOSES—AFFIXED TO CEILINGS—REQUIRED TO BE INCOMBUSTIBLE AND OF INCOMBUSTIBLE MATERIAL—SECTION 12600-73 G. C.

## SYLLABUS:

The words "other enclosures," as used in Section 12600-73 of the General Code, include ceilings as well as walls, partitions, stair and elevator enclosures.

Acoustical tile when it is applied to or affixed to ceilings is and becomes a part of such ceilings.

When acoustical tile for soundproofing purposes or for other purposes is applied to or affixed to ceilings in a building to which Section 12600-73, General Code, is applicable such acoustical tile is required to be incombustible and an entirely incombustible material.

Columbus, Ohio, January 6, 1951

Hon. Albert A. Woldman, Director, Department of Industrial Relations  
Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"The Division of Factory & Building Inspection of the Department of Industrial Relations requests your legal opinion regarding the following question:

"Section 12600-296 of the General Code of Ohio requires the submission to the Division of Factory & Building Inspection of this department for examination and approval all plans and specifications for the construction, alteration, etc., of certain public buildings. Such plans and specifications frequently provide an acoustical covering for the ceilings in buildings which, by Section 12600-73 of the General Code, are required to be of fireproof construction.

“Section 12600-73 defines fireproof construction as follows:

“‘Fireproof construction. Fireproof construction is that type in which all structural parts carrying weights or resisting strains and all exterior and interior walls, partitions, stair, elevator and other enclosures are composed entirely of incombustible materials with all metallic structural members protected from the effects of fire and water by a covering of materials entirely incombustible and slow heat conductors.’

“You will note that the words ‘ceiling’ or ‘ceilings’ are not specifically referred to in this definition. However, reference to ‘fireproof ceilings’ is made in Section 12600-78.

“A question has arisen over the right to install acoustical tile which is not ‘composed entirely of incombustible materials’ in the ceilings of public school buildings and other buildings required by the statutes to be of fireproof construction. It is the contention of certain material firms and contractors that since Section 12600-73 makes no specific reference to ‘ceilings,’ it is not necessary that acoustical covering for ceilings in buildings required to be of fireproof construction, shall be ‘composed entirely of incombustible materials.’

“They contend that the provisions of Section 12600-73 authorizes the use in buildings required to be of fireproof construction of acoustical ceiling covering made of combustible, fire-resistant or fire-retardant materials.

“Combustible acoustical coverings are usually in the form of tiles made of vegetable or wood fiber and are from one-half to one inch in thickness, and 12 x 12, 12 x 24 or 24 x 24 in overall dimensions. Such tile is susceptible of combustion and will readily burn.

“Fire-retardant acoustical materials and slow-burning acoustical materials are combustible tile with standard factory-applied fire retardant paint impregnated. This material will not burn as readily as combustible tile. Incombustible acoustical material is fireproof material.

“All of these materials come in substantially the same thicknesses and sizes above mentioned, and are usually attached by nailing, mechanical application or by cementing.

“It is the further contention of material firms and contractors that acoustical covering does not constitute ‘structural parts carrying weights or resisting strains’ or ‘exterior and interior walls, partitions, stair, elevator, and other enclosures,’—but on the contrary is only a covering like wallpaper or paint, and, therefore, not required to be of incombustible material.

“It has been the recent policy of the Division of Factory & Building Inspection to regard acoustical ceiling covering as con-

stituting an 'enclosure' and, therefore, necessarily required to be of incombustible material in buildings of fireproof classification.

"The question on which your legal opinion is requested is whether acoustical tile applied to form the covering of a ceiling constitutes an 'enclosure' referred to in Section 12600-73, and required to be 'entirely composed of incombustible materials' in buildings of fireproof classification, or whether such acoustical material constitutes only a covering like wallpaper or paint, and, therefore, not required to be of incombustible material—provided that the backing beneath the covering of acoustical material is of a type 'in which all structural parts carrying weights or resisting strains \* \* \* are composed entirely of incombustible materials with all metallic structural members protected from the effects of fire and water by a covering of materials entirely incombustible and slow heat conductors.'"

Section 12600-73 of the General Code, which is the Code section on which you seek an opinion, reads as follows:

"Fireproof construction is that type in which all structural parts carrying weights or resisting strains and all exterior and interior walls, partitions, stair, elevator and other enclosures are composed entirely of incombustible materials with all metallic structural members protected from the effects of fire and water by a covering of materials entirely incombustible and slow heat conductors.

"When the height of the building measured from the average grade line to the ceiling of the topmost story exceeds seventy-five (75) feet, the floors, doors, windows and the usual trim of the rooms shall be of incombustible materials.

"When the height of the building measuring from the average grade line to the ceiling of the topmost story is seventy-five (75) feet or less, the floors, doors, windows and the usual trim of the rooms may be of the ordinary wood construction with no open air spaces behind the wood."

Your inquiry first concerns itself with the question of whether the word "enclosures" as used in this section of the Code includes ceilings. While the wording of Section 12600-73 of the Code does not specifically mention ceilings and does mention "all exterior and interior walls, partitions, stair, elevator and other enclosures," it is inconceivable that ceilings were not contemplated by the General Assembly as constituting a part of building enclosures and subject to fireproofing.

In the first place, the purpose of the building code in requiring fire proofing is to prevent fire and the spread of fire. Fire, in spreading, essen-

tially spreads upward faster than sidewise. It would be strange to think that because the word "ceilings" was not specifically mentioned in this Code section, fireproofing was only required to prevent the lateral spread of fire. Consequently, I am of the opinion that the General Assembly in enacting Section 12600-73 of the General Code, involving fireproof construction intended and meant that ceilings were to be considered as part of the building enclosures, not merely walls and partitions.

We must next consider whether or not combustible acoustical tile, when placed on ceilings, walls or partitions, constitute a violation of the requirements of fireproof construction as defined in Section 12600-73 of the General Code.

In construing Section 12600-73 of the General Code, we must consider the broad purposes of the statute from its wording and from surrounding circumstances, including the common understanding and practices of the building trades that it affects.

It is clear that the General Assembly in enacting this statute intended that the building construction should be made as fireproof and safe as possible. The section emphasizes that "all structural parts carrying weights or resisting strain and all exterior and interior walls, partitions, stair, elevator and other enclosures" should be composed entirely of incombustible materials and that metallic structural members be protected by a covering of materials entirely incombustible and slow heat conductors.

Since the words "other enclosures," as used in Section 12600-73 of the General Code, include ceilings, I shall now consider whether or not acoustical tile when applied to or affixed to ceilings constitutes a part of such ceilings.

When acoustical tile for soundproofing purposes or for other purposes is applied to or affixed to ceilings, such acoustical tile becomes a part of such ceilings.

The intent of said Section 12600-73, General Code, is that interior walls, partitions, stair, elevator and other enclosures, which include ceilings, should be composed entirely of incombustible materials.

I have not been requested to and am not giving any opinion on what make or makes or brand or brands of acoustical tile is or are incombustible or entirely composed of incombustible materials or the equivalent thereof.

Therefore, in conclusion, it is my opinion that the words "other enclosures," as used in Section 12600-73 of the General Code, include ceilings as well as walls, partitions, stair and elevator enclosures.

It is also my opinion that acoustical tile when it is applied to or affixed to ceilings is and becomes a part of such ceilings.

It is further my opinion that when acoustical tile for soundproofing purposes or for other purposes is applied to or affixed to ceilings in a building to which Section 12600-73, General Code, is applicable such acoustical tile is required to be incombustible and an entirely incombustible material.

Respectfully,

HERBERT S. DUFFY,  
Attorney General.