

3180.

PUBLIC BUILDINGS—NECESSITY FOR SUBMISSION OF PLANS FOR THEIR CONSTRUCTION TO CHIEF OF DIVISION OF WORKSHOPS AND FACTORIES—EXCEPTION NOTED—DUTY OF SAID CHIEF TO DETERMINE WHETHER OR NOT SUCH CONSTRUCTION IN ACCORDANCE WITH BUILDING CODE.

SYLLABUS:

1. *The duties of the chief of the division of workshops and factories, in reference to the construction of public buildings, are defined by section 12600-296, General Code.*

2. *By virtue of the provisions of section 12600-296, General Code, all plans or drawings and specifications relating to the construction, erection, alteration or equipment of a public building must be first submitted to the chief of the division of workshops and factories, except when the plans or drawings and specifications are submitted to a municipal building department having jurisdiction. It is the duty of the chief of the division of workshops and factories, in order to approve or disapprove such plans or drawings and specifications submitted to him, to decide whether or not the construction, equipment or alteration, material or devices to be used, will meet the requirements of the building code.*

COLUMBUS, OHIO, April 25, 1931.

HON. T. A. EDMONDSON, *Director of Industrial Relations, Columbus, Ohio.*

DEAR SIR:—This will acknowledge your letter of recent date, calling my attention to a paragraph on page 7 of Opinion No. 3096, recently rendered by me to the Bureau of Inspection and Supervision of Public Offices and reading as follows:

“The thermal system does not conform to all of the requirements of the building code of Ohio in such cases made and provided for, in that the system recirculates the air in a building instead of making six complete changes of air per hour, as required by section 12600-64.”

That sentence apparently indicates that I have decided and have come to the conclusion that a certain ventilating and heating system did not comply with all of the requirements of the building code. The statement made in that paragraph was based on information contained in a letter from a Mr. Hausmann to the Board of Building Standards, wherein it was stated that a certain ventilating system designated by Mr. Hausmann as the “Thermal System” did not comply with all of the requirements of the building code. A copy of that letter may be found at page 2 of Opinion No. 3096.

I am now informed by you that this particular heating and ventilating system does not violate any of the requirements of the building code. Your letter further states:

“This unit heating and ventilating system is thermo-statically controlled so that the supply of outside air used is varied to meet the demands created by occupancy and weather conditions, and at times recirculates more or less air when the full supply of outside air is not needed, but is capable of supplying from six to ten complete changes of fresh air per hour, and uses also vent-flues and registers.”

As previously stated herein, my statement concerning the ventilating and

heating system in question was based on information furnished to me when my opinion was requested by the Bureau of Inspection and Supervision of Public Offices as to the right of the Board of Building Standards to allow, for the purpose of a test, the installation in a public high school of a heating and ventilating system that did not comply with all of the requirements of the building code. In other words, I was informed in the letter requesting my opinion, that the so-called "Thermal System" did not fully satisfy the requirements of the building code, and, in writing Opinion No. 3096, I assumed that the facts stated regarding the so-called "Thermal System" were true. The paragraph to which my attention is now called was merely an expression of that fact. The statement contained in that paragraph was not the result of my own finding but rather the result of the question asked and the information furnished me.

Whether or not the ventilating and heating system installed in the Marshall High School of Cleveland, Ohio, meets all of the requirements of the building code is a question of fact which I can not and need not decide or rule upon. The duty of determining that question devolves upon the officials designated by section 12600-281, General Code, which reads in part as follows:

"It shall be the duty of the chief inspector of workshops and factories, or building inspector, or commissioner of buildings in municipalities having building departments, to enforce all the provisions herein contained for the construction, arrangement and erection of all public buildings or parts thereof, including the sanitary condition of the same in relation to the heating and ventilation thereof."

and section 12600-296, General Code, which reads as follows:

"Before entering into contract for the construction or erection of any public building to be used or that may be used as a place of resort, assembly, education, entertainment, lodging, trade, manufacture or repair, storage, traffic or occupancy by the public, the owner or owners thereof shall, in addition to any other submission of plans or drawings, specifications and data required by law, submit the plans or drawings, specifications and data prepared for the construction, erection and equipment thereof, or the alteration thereof or addition thereto to the municipal building department having jurisdiction, if such there be; otherwise to the chief of the division of workshops, factories and public building, for its or his approval. No owner or owners shall proceed with the construction, erection, alteration or equipment of any such building until said plans or drawings, specifications and data have been so approved."

Inasmuch as it is not necessary or within my power to decide questions of fact, I deem it proper at this time to state that the paragraph contained in Opinion No. 3096 and reading as follows:

"The thermal system does not conform to all of the requirements of the building code of Ohio in such cases made and provided for, in that the system recirculates the air in a building instead of making six complete changes of air per hour, as required by section 12600-64."

need not be considered by you as deciding the legality of the ventilating and heating system in question. The statement made in that paragraph was unnecessary to a determination of the question presented in Opinion No. 3096. I want it

distinctly understood that my statement that the so-called "Thermal System" did not comply with all the requirements of the building code, was not my decision upon the question of whether or not that ventilating system did or did not comply with the statutory provisions of the building code. Hence, as heretofore stated, that statement need not be considered by you as controlling that question.

Your inquiry "as to the duties and authority of the Chief of the Division of Workshops and Factories in passing his opinion or approval on equipment, material, devices, constructions, etc., to be used in Public Buildings" is answered, in my mind, by the provisions contained in section 12600-296, General Code. It is apparent from that section that all plans, drawings or specifications for equipment, type of construction and materials to be used in erecting or altering a public building must be first submitted to and approved by either the municipal building department having jurisdiction or the chief of the division of workshops and factories. The chief of the division of workshops and factories thus has the duty of deciding whether or not a particular device, material or type of construction meets with the requirements of the building code before he can approve or disapprove the plans or drawings and specifications submitted to him prior to the construction of any public building.

It is therefore my conclusion that:

1. The duties of the chief of the division of workshops and factories, in reference to the construction of public buildings, are defined by section 12600-296, General Code.

2. By virtue of the provisions of section 12600-296, General Code, all plans or drawings and specifications relating to the construction, erection, alteration or equipment of a public building must be first submitted to the chief of the division of workshops and factories, except when the plans or drawings and specifications are submitted to a municipal building department having jurisdiction. It is the duty of the chief of the division of workshops and factories, in order to approve or disapprove such plans or drawings and specifications submitted to him, to decide whether or not the construction, equipment or alteration, material or devices to be used, will meet the requirements of the building code.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3181.

VILLAGE SCHOOL DISTRICTS—BECOMING CITY SCHOOL DISTRICTS
BY VIRTUE OF FEDERAL CENSUS—HOW LONG VILLAGE BOARD
MEMBERS CONTINUE IN OFFICE—WHO FIXES NUMBER OF MEM-
BERS FOR NEW CITY BOARDS—DETERMINATION OF LENGTH OF
NEW MEMBERS' TERMS.

SYLLABUS:

1. *When, by reason of its attaining a population of 5,000 or more in accordance with a federal census, a village becomes a city and the village school district is thereby advanced to a city school district, the members of the board of education which had theretofore functioned as the village board of education, continue in office until succeeded by the members of the board of education of the new*