



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Mr. Thomas D. Broad, Secretary
State Board of Architectural Examiners
Burt Building
Dallas, Texas

Dear Sir:

Opinion No. O-1794
Re: Sufficiency of evidence
against architecture li-
cense to revoke registra-
tion certificate.

Thank you for your letter of December 21, 1939,
with which you enclosed copies from your files relative
to one Reynolds Fisher, and which letter reads, in part,
as follows:

"We are enclosing herewith a file of corres-
pondence between the Board of Architectural Exam-
iners and the Dallas Society of Registered Archi-
tects referring to Mr. Reynolds Fisher, Dallas.

"The Dallas Society of Registered Architects
wants this Board to bring suit to revoke the li-
cense of this man because of alleged dishonest
practices which reflect adversely on the archi-
tectural profession as a whole. Section 12 of the
Architects Registration Law of this State would
seem to give adequate authority for such a suit.

"However, such a suit has not yet been con-
ducted by this Board against anyone and before
proceeding in the matter we want to ask that you

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advise us whether or not we have a proper case against this man, and if so, the proper way in which to proceed in the matter. We do not want to take action unless we know that we are right."

Section 12 of the Architects' Registration Law, Article 249a, V. A. C. S., reads as follows:

"Registration certificates of architects issued in accordance with this Act, shall remain in full force and effect until expiration date unless revoked for cause as herein provided.

"The registration certificate and right of any person to practice architecture in this State may be revoked and cancelled by any District Court of this State, in a suit by the State upon the relation of the Board of Architectural Examiners, upon the proof of the violation of the law in any respect in regard thereto, or for any cause for which the Board of Architectural Examiners is authorized to refuse to grant registration certificates, or for proof of gross incompetency, or for recklessness in the construction of buildings on the part of the architect designing, planning, or supervising the construction or alteration of same, or for dishonest practice on the part of the holder of such registration certificate; and when requested by the Board, the several District and County Attorneys of this State shall have the authority, and it shall be their duty, to file and prosecute appropriate judicial proceedings in the name of the State against such persons. The venue of each suit shall be in the county of the residence of the holder of such registration certificate."
(Underseoring ours.)

You will note that such section 12 makes it the duty of the County or District Attorney to prosecute these suits on your direction, and for such purposes such officer is your attorney and not the Attorney General of Texas. Moreover, we do not believe that it is within our province to determine whether or not evidence is sufficient to warrant a

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prosecution. Regardless of the way we might decide and advise you the County or District Attorney or the jury might believe otherwise. Furthermore, we are of the opinion that your honorable Board is better equipped through professional education and experience to determine whether or not the architect in question has adhered to the proper standards of a professional architect, as set forth in Article 249a of the Vernon's Annotated Civil Statutes.

Consequently, you are respectfully advised and it is the opinion of this Department that the Texas Board of Architectural Examiners in proceedings to revoke the registration certificate of a professional architect for conduct within the contemplation of Section 12 of Article 249a should primarily determine for itself whether or not it deems proper architectural standards as laid down by the statute have been departed from in the particular case, and having so determined it should turn all evidence over to the proper County or District Attorney for proceedings, pursuant to Section 12, Article 249a, of the Vernon's Annotated Civil Statutes.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Walter R. Koch*
Walter R. Koch
Assistant

By *James D. Smullen*
James D. Smullen

APPROVED JAN 12, 1940

JS:BBB

J. H. Moore
FIRST ASSISTANT
ATTORNEY GENERAL

