

MAINE STATE LEGISLATURE

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no

November 26, 1951

To Doris M. St. Pierre, Secretary, Real Estate Commission
Re: License - Joseph Roy

This opinion is in response to your memos of November 15, 1951, and October 26, 1951, which memos supplement your memo to us of October 11, 1951.

In our memo of October 19, 1951, to you in answer to your memo of October 11, 1951, we expressed our opinion that, as Section 8, Chapter 75, R. S. 1944, specifically enumerated those acts which are grounds for suspension or revocation of license such specific enumeration precludes suspension or revocation for other grounds.

We further noted that those acts the performing of which justifies the suspension or revocation of license are acts which give the broker an unjust advantageous position over the purchaser, or crimes of a nature entirely distinguishable from that class of crimes of which sodomy is a typical example. Sharp business practice and dishonesty as opposed to moral turpitude.

The last sentence in the above paragraph, in which the words "moral turpitude" were used, apparently gave you reason to consider that there were still grounds for the suspension or revocation of Mr. Roy's license because of his conviction of sodomy. Actually, the words "moral turpitude" were used to distinguish certain classes of crimes which obviously are of a different nature.

You then ask in your memo of October 26, 1951, for a definition of "moral turpitude" which appears in the original application for license, and ask what would be considered definite grounds on which you have authority to refuse a license in answer to the question:

"Has applicant been convicted of any criminal offense involving moral turpitude? Yes or No? If so, what offense?"

In your memo of November 15, 1951, you cite Section 8, paragraph 11, which reads:

"The commission shall, in addition, have power to revoke or suspend any license issued under the provisions of this chapter, at any time, where the licensee performs any act or acts, or offers or attempts or agrees to do any act or acts, for which the commission may lawfully refuse to issue a license to any applicant,"

and ask if this paragraph gives you authority to revoke Mr. Roy's license following the required hearing. You also inquire if Mr. Roy should be present at the hearing, and if so, how to notify him at the State Prison, etc.

Though the term "moral turpitude" is often used to distinguish a certain class of crimes from another class, a general definition of the term "moral turpitude" is anything done contrary to justice, honesty, modesty, or good morals. It has further been said to be an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellowman or to society in general, contrary to accepted and customary rule of right and duty between man and man.

Section 5 of Chapter 75, R. S. 1944, states that the applicant for a real estate license shall state whether he has been convicted of a criminal offense involving moral turpitude, and if so, what offense. Our opinion of October 19, 1951, was given without considering Section 5 of Chapter 75 in connection with Section 8, subsection II. The effect of these two sections is to change our opinion of October 19th. It is our opinion, therefore, that you do have the authority to suspend Mr. Roy's license, he having been convicted of a crime involving moral turpitude.

Whether you will revoke his license or give consideration to the fact that while he is serving a prison sentence his license is useless to him and that further hearing would only stir up a situation which might best be left silent, since in reality his license will expire during the term of his sentence and you may then refuse to grant him a new license, is an administrative problem.

The problems involved in giving notice to Mr. Roy in the State Prison and having him present at the hearing are questions which are difficult to answer and which we will refrain from answering until you inform us that you definitely plan to revoke his license.

James G. Frost
Assistant Attorney General

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