

MAINE STATE LEGISLATURE

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STATE OF MAINE



REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1955 - 1956

June 22, 1956

To Sulo Tani, Director, Division of Research and Planning,
Department of Development of Industry and Commerce

Re: Federal Aid

This opinion is submitted to you so that it may be enclosed with certain applications which you are about to submit to the Urban Renewal Administration of the Housing and Home Finance Agency.

The Department of Development of Industry and Commerce is empowered, through its Commissioner, to accept for the State any federal funds which may be apportioned under federal law in relation to urban planning and planned public works. See Section 2 of Chapter 471 of the Public Laws of 1955.

The Commissioner is further authorized by the same provision to do such acts as are necessary to carry out the purposes of such federal law, and it is under this provision, we feel, that the Commissioner is empowered to enter into a contract with the appropriate agency of the United States to carry out the purposes for which the grant or funds shall be apportioned.

The Department above referred to is created by Chapter 471 of the Public Laws of 1955, and that Department is broken down into various Divisions, one of which is the Division of Research and Planning. Its powers are set forth specifically in subparagraphs I through VIII of Section 4 of Chapter 471 of the Public Laws of 1955. It is under subparagraph VII, above referred to, that the Department, through its Division of Research and Planning, is empowered to provide planning assistance to municipalities and other groups therein specified.

Application form H-6702 at page 7 requests that the applicant submit two authenticated copies of the resolution, minutes of the meeting, or other documents authorizing the execution of the application.

This request cannot be complied with, in view of the fact that, in our opinion, the Commissioner alone, under the powers vested in him by Chapter 471 of the Public Laws of 1955, has the sole discretion as to the making of this application and no authorization from any other source is necessary.

ROGER A. PUTNAM
Assistant Attorney General

June 29, 1956

To Doris St. Pierre, Secretary, Real Estate Commission

Re: Auctioneers

... You ask "whether or not auctioneers auctioning property for sale are included in the definition of a real estate broker defined in Sec. 2, Par. I of our Real Estate License Law; OR should the Law be amended to include these activities?"

At the outset it should be noted that a real estate broker is defined as follows:

"I. A 'real estate broker' is any person, firm, partnership, association or corporation who for a compensation or valuable consideration sells

or offers for sale, buys or offers to buy, or negotiates the purchase or sale or exchange of real estate, or who leases or offers to lease, or rents or offers for rent, or lists or offers to list for sale, lease or rent, any real estate or the improvements thereon for others, as a whole or partial vocation."

It should be further noted that this section also contains the following provision:

"A single transaction for a compensation or valuable consideration, of buying or selling real estate of or for another, or offering for another to buy, or sell, or exchange real estate, or leasing, or renting, or offering to rent real estate, except as herein specifically excepted, shall constitute the person, firm, partnership, association or corporation performing, offering or attempting to perform any of the acts enumerated herein, a real estate broker or real estate salesman within the meaning of this chapter."

If an auctioneer sells real estate, offers to sell real estate, or offers to negotiate the sale of real estate, it is our opinion that he comes within the definition of real estate broker and should, of course, be licensed.

Specific reference should be made to the single transaction definition quoted above. If our law did not contain this provision, I think that the general rule that persons who engage in a single sale or casual transaction relating to real estate brokerage are not real estate brokers within the meaning of Real Estate Licensing Laws would prevail. See Semenov, "Survey of Real Estate Brokers' Licensing Laws," 1941 Edition. The statute making a single sale an actual transaction would therefore place these auctioneers under the law. If there were no such provision, I believe they would be outside.

It should be further noted that auctioneers are not specifically exempted by the provisions of Section 2 of Chapter 84, R. S. 1954.

ROGER A. PUTNAM
Assistant Attorney General

July 5, 1956

To The Governor and Council

Re: Revised Statutes

We are returning herewith letter from Richard Strichartz, addressed to Harold I. Goss, Secretary of State, in which Professor Strichartz requests copyright clearance of the sections of our State law dealing with certain subjects, a list of which was attached to the letter.

Those sections of our statutes which Professor Strichartz desires are available to him without clearance. Statutes are not in themselves subject to copyright. Hence we do not consider that there would be any infringement in copying our statutes.

The legislature has not authorized anyone to grant permission to use copyrightable features such as the index and annotations.

JAMES GLYNN FROST
Deputy Attorney General