

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

counsellor shall be appointed to any office during the time, for which he shall have been elected.”

It is the opinion of this office that the position of member of the State Board of Examiners and Funeral Directors and Embalmers is a civil office within the meaning of the above constitutional provision. For this reason, this office is incompatible with the office of executive counsellor and the same person cannot constitutionally hold both offices at the same time.

THOMAS W. TAVENNER

Assistant Attorney General

January 30, 1962

To: Philip R. Gingrow, Examiner, Banks and Banking

Re: Issuance of Small Loan License to Superior Finance Co.

Since my memo of January 17th you have furnished information concerning the Superior Finance Co. This information would indicate that the Superior Finance Co. did commence actual business under its charter within two years from the effective date of the legislature granting the charter.

It is a well recognized principle of law that the courts frown upon forfeitures of corporate franchises. The main object is to preserve a charter, not destroy it, and it should be preserved unless there is a plain abuse of power by which the corporation fails and wilfully neglects to fulfill the design and purposes of its organization.

This corporation was organized in 1959, has held several meetings, has borrowed \$600, has purchased a corporate seal and corporate records books.

It would appear, therefore, that the corporation did commence business within the two-year period.

GEORGE C. WEST

Deputy Attorney General

January 31, 1962

To: Doris M. St. Pierre, Secretary, Real Estate Commission

Re: Meaning of “Fixed and Definite Place of Business”

This is in answer to your request for an opinion inquiring whether there is any conflict between the requirement of Section 7 of Chapter 84, Revised Statutes of 1954, that every real estate broker “shall maintain a fixed and definite place of business in this state” and the definition of a real estate broker under Section 2, paragraph I, as any person “who . . . sells . . . real estate . . . as a whole or partial vocation.”

It is my opinion that the above requirements do not conflict. A real estate broker may elect to sell real estate on a part time basis. The provision that the broker must maintain a fixed and definite place of business does not require that the place of business be open to the general public during regular business hours.