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June 11, 1962

Doris St. Pierre

Real Estate Commission

Thomas W. Tavenner, Assistant

Attorney General

Renewal of Real Estate Broker's License - John E. O'Donnell

We have your request of June 8 for an opinion with regard to the renewal license of one John E. O'Donnell. As we understand your inquiry, you ask whether or not the license of a person indicted by the Grand Jury in connection with the illegal operations of a distillery should be renewed by the Real Estate Commission.

Revised Statutes Chapter 84 § 7, states that - "The Commission shall issue a new license for each ensuing year in the absence of any reason or condition which might warrant the refusal of the granting of a license . . ."

Section 8 of the aforementioned chapter sets forth the various reasons for which a real estate broker or salesman can be suspended or revoked. At no place in Chapter 84 does the law state that indictment for a crime can be grounds for the revocation or suspension of a license. In order for a license to be revoked for an offense such as operation of an illegal still, the Real Estate Commission would have to prove either that the crime involved was similar to forgery, embezzlement, larceny, extortion, or like offenses, or that the act in question demonstrated bad faith, incompetency, untrustworthiness, or dishonest, fraudulent, or improper dealings. Assuming that the crime for which Mr. O'Donnell stands indicted is a crime for which the Commission could revoke or suspend a license, still the Commission would have to wait until such time as Mr. O'Donnell is actually convicted of that crime before any proceeding for revocation or suspension can be instituted.

It is, therefore, our opinion that the Real Estate Commission under the terms of the Revised Statutes Chapter 84, § 7, must renew Mr. O'Donnell's license on the state of facts as they appear in your request for an opinion. We would like to point out, however, that this opinion in no way covers the situation which would exist if Mr. O'Donnell had failed to report a change of address to the Commission within the 30-day period required by statute and regulation.

Thomas W. Tavenner
Assistant Attorney General

TWT:E