

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date October 8, 1968

To H. Lester Hughes, Chairman Dept. Real Estate Commission

From Garth K. Chandler, Assistant Dept. Attorney General

Subject Legality of Withdrawal Statement in an Exclusive Listing Agreement

SYLLABUS:

A notice of withdrawal and re-listing in an Exclusive Listing Agreement which attempts to postpone the specific expiration date of the agreement is improper.

FACTS:

A statement in an exclusive listing agreement reads:

"I hereby reserve the right to withdraw the above described premises from the market, upon giving (name of broker or agency) fifteen days notice in writing of my intention to withdraw said property from the market. At the expiration of said fifteen days notice, if the property remains unsold, it is to be considered withdrawn until such time as I desire to sell the property, at which time I agree to notify (name of broker or agency) that said property is again on the market for the purpose of sale, and I agree to allow (name of broker or agency) a time equal to the unexpired term of this contract when it is withdrawn, for the purpose of selling the property under the same terms and conditions as specified in this contract."

QUESTION:

Is the above statement legally valid?

ANSWER:

No.

REASONS:

32 M.R.S.A. § 4004 states:

"Any contract made by a real estate

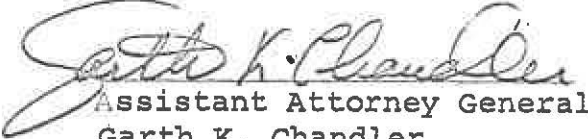
H. Lester Hughes, Chairman

October 8, 1968

broker or salesman to list real estate for sale shall contain a specific expiration date. If the parties to the contract desire to continue the contract, a new contract must be executed."

The operation of the above reference clause tends to extend the expiration date beyond what must be specific at the time the contract is entered into. While the notice of withdrawal part of the subject clause is valid, the indefinite lapse of time before a relisting makes the remainder of the clause a violation of the above 32 M.R.S.A. § 4004. Were the parties desirous of relisting the property, a new contract with a new expiration date would be in order and is required by the statute.

GKC/mf


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