

# MAINE STATE LEGISLATURE

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7071-11

Inter-Departmental Memorandum Date June 2, 1976

To Paul A. Sawyer, Director

Dept. Real Estate

From David Roseman, Assistant

Dept. Attorney General

Subject Term of Office

In your memo to me dated May 25, 1976, you have asked whether Richard Kilroy continues, after May 20, 1976, to serve as a member of the Board of Real Estate Brokers and Salesmen until his successor is appointed and qualified. We answer that question in the negative. As is explained below, it is our opinion that Mr. Kilroy's term as a member of the Board of Real Estate Brokers and Salesmen ended on May 20, 1976.

Prior to its repeal and replacement by Chapter 547 of the Public Laws of 1975, 32 M.R.S.A. § 4051 had provided for a Maine Real Estate Commission to be composed of 3 persons, appointed by the Governor. From the information you have provided me, I understand that Mr. Kilroy was first appointed as a member of the Real Estate Commission in December, 1971, that he was reappointed on May 20, 1973 for a full 3-year term,<sup>1/</sup> that he was later selected to be the Chairman of the Real Estate Commission, and that he was serving as the Chairman when P.L. 1975 Chapter 547 took effect on October 1, 1975. Pursuant to P.L. 1975 Chapter 547, the Real Estate Commission was replaced by the Board of Real Estate Brokers and Salesmen, and by the Bureau of Real Estate. The Board of Real Estate Brokers and Salesmen is composed of the Director of the Bureau of Real Estate, appointed by the Commissioner of Business Regulation, and four other members appointed by the Governor. See 32 M.R.S.A. §4051, 4051-A.

Section 41 of P.L. 1975 Chapter 547, entitled "Transitional provision," states in applicable part in unambiguous terms that


". . . the present Chairman of the Maine Real Estate Commission [to wit, Mr. Richard Kilroy] shall serve as a member of the Board of Real Estate Brokers and Salesmen until May 20, 1976. . . ."

Thus, the Legislature intended that after October 1, 1975, when the Real Estate Commission was replaced as to membership and operational structure by the Board of Real Estate Brokers and Salesmen and by the Bureau of Real Estate there would be a "transitional period" during which the Chairman of the Real Estate Commission would continue to serve as a member of the Board of Real Estate Brokers and Salesmen. However, the Legislature expressed its intent in clear language that the term of Mr. Kilroy as a member of Board of Real Estate Brokers and Salesmen would end on May 20, 1976. Had the Legislature intended that Mr. Kilroy's term as a member of the Board would continue after May 20, 1976 until his successor was appointed and qualified, it is likely that it would have included in P.L. 1975 Chapter 547, the type of transitional clause that was inserted during the same legislative session in P.L. 1975, Chapter 608, "An Act to Reorganize the State Personnel Board." It is stated in Section 2 therein that:

"The 3 public members currently serving on the State Personnel Board shall continue until the expiration of their respective terms and until their successors have been appointed and qualified." (emphasis added)

<sup>1/</sup> Thus, had the Real Estate Commission not been replaced, Mr. Kilroy's term as a member of said Real Estate Commission would have expired on 5/20/76.

cc: Richard Kilroy

  
David Roseman  
Assistant Attorney General