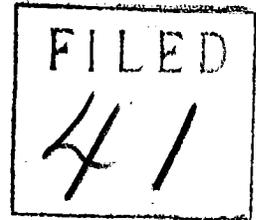


MISSOURI REAL ESTATE
COMMISSION:

- (1) Authority to issue separate types of licenses to the same person for the same licensing period;
- (2) Authority to promulgate rules relative to issuance of two separate licenses to same person for the same licensing period.

October 23, 1945



Missouri Real Estate Commission
222 Monroe Street
Jefferson City, Missouri

Attention: Mr. J. W. Hobbs, Secretary

Gentlemen:

Reference is made to your letter dated October 11, 1945, requesting an official opinion of this office, and reading, in part, as follows:

"Can a person who has been issued a real estate license as an officer of a Corporation and who desires to apply for an Individual Brokers License be issued the two separate types of licenses for the same year, also does the Missouri Real Estate Commission have the power to promulgate rules in which they can refuse more than one type of license during a calendar year."

With respect to the first question you have propounded, we direct your attention to a portion of Section 2 of an Act of the General Assembly, found in Laws of Missouri, 1941, page 424, reading as follows:

"A corporation, copartnership or association shall be granted a license when individual licenses have been issued to every member or officer of such copartnership, association or corporation who actively participates in its brokerage business,
* * * "

Further, your attention is directed to Section 7 of the same Act, which reads as follows:

"A license shall be granted only to persons who bear, and to corporations or associations whose officers bear, a good reputation for honesty, integrity, fair dealing, and who are competent to transact the business of a real estate broker or a real estate salesman in such manner as to safeguard the interests of persons whom they represent."

From an examination of the above quoted portions of the Act, it becomes apparent that the licensing regulations applicable to persons desiring to engage in business, either individually or as officers or members of a corporation, copartnership or association, are identical. Further examination of the entire Act discloses no prohibitions against the issuance of licenses for the same licensing period to an individual both as an officer of a corporation, copartnership or association and as an individual. Such being the case, we believe that no prohibition in fact exists and that the same person may lawfully hold both types of license for the same licensing period.

With respect to the second question you have propounded, we direct your attention to a portion of Section 4 of the Act of the General Assembly, found in Laws of Missouri, 1941, page 424, reading as follows:

" * * * Said commission may do all things necessary and convenient for carrying into effect the provisions of this act, and may from time to time promulgate necessary rules and regulations compatible with the provisions of this act. * * * "

Under the express authorization contained in the quoted portion of the Act, the Missouri Real Estate Commission does have authority to promulgate necessary rules and regulations for the enforcement of the provisions of the entire scheme of licensing real estate brokers and salesmen in the State of Missouri.

However, certain restrictions apply to the right of any governmental commission, board or agency respecting the discharge of its official duties. We direct your attention in that regard to the following quotation from "States," 59 C.J., page 112:

"Powers granted to state administrative agencies must be exercised in a just and reasonable manner and in conformity with the statutory or constitutional source of the power conferred."

Considering the proposed rule which would prohibit the issuance of separate licenses to a person both as an officer of a corporation, copartnership or association and as an individual, covering the same licensing period, in the light of the above principle, we reach the conclusion that such proposed rule and regulation would be unjust and unreasonable. We are persuaded to this view by reason of the fact that the licensing requirements are identical both for an individual and for an officer of a corporation, copartnership or association, and by further reason of the fact that no prohibition exists in the act itself against the issuance of such separate licenses.

CONCLUSION

In the premises, we are of the opinion that a person may be licensed by the Missouri Real Estate Commission for the same licensing period both as an individual real estate broker or salesman and as a member or officer of a corporation, copartnership or association.

We are further of the opinion that any rule or regulation of the Missouri Real Estate Commission which would prohibit the same person being licensed both as an individual real estate broker or salesman and as an officer or member of a corporation, copartnership or association for the same licensing period would be unjust and unreasonable, and unauthorized by the Act creating the Missouri Real Estate Commission

October 23, 1945

and delegating to it authority to promulgate such rules as may be necessary for the carrying out of the provisions of the Act found in Laws of Missouri, 1941, page 424.

Respectfully submitted,

WILL F. BERRY, Jr.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

WFB:HR