

MISSOURI REAL ESTATE
COMMISSION:

Licenses selling real estate in connection with which a contest is being held are not jeopardizing their licenses if contest is not for the purpose of influencing purchasers or prospective purchasers of real property.



December 7, 1956

Honorable J. W. Hobbs, Secretary
Missouri Real Estate Commission
222 Monroe Street
Jefferson City, Missouri

Dear Mr. Hobbs:

This is in answer to your opinion request addressed to this office, dated September 17, 1956, on the following question:

The Stanton Building Company is a builder of subdivisions in Kansas City, Missouri. The James H. Stanton Company Realtors sell homes which are built by Stanton Building Company. The Stanton Building Company advertises extensively through radio, television, and newspapers, and in order to determine the relative value of the various advertising media used, they have the public fill out certain forms as they pass through the model homes in each project. The purpose of these forms is for the determination by the Stanton Building Company as to what advertising media will provide them with the best results in the future. It is difficult to get the public to cooperate in filling out these forms, so an inducement in the form of a drawing, with a radio as a prize is offered. The forms are placed in a box and one drawn therefrom, and the name appearing thereon is the winner of the radio for that period.

Is the giving away of a radio for the purpose of inducing the general public to divulge information which they would not normally divulge to the building and selling corporations, a violation of Section

Honorable J. W. Hobbs

339.100, Clause 11, RSMo.1949, insofar as the real estate company and the sales people who actually sell the houses in the subdivision are concerned?

We have recently sent you a copy of an opinion of this office which was rendered upon your request concerning a contest being held by United States Steel Homes, Inc., and the provisions of Section 339.100, Clause 11, RSMo 1949, and the applicability of the provisions of that section to licensees selling homes involved in the contest. That opinion held that the licensee himself must be performing the prohibited acts before his license could be revoked or suspended by the Missouri Real Estate Commission. That opinion also set out the three elements necessary to constitute a violation of Clause 11, Section 339.100, supra. First, there must be a soliciting, selling or offering for sale real property by the licensee. Second, there must be an offering of free lots or the conducting of lotteries or contests or the offering of prizes by licensee. Third, the purpose for which the licensee performs the above acts must be to influence a purchaser or prospective purchaser of real property.

The information in your letter of October 17, 1956, concerning the Stanton Building Company and James H. Stanton Realtors states that the Stanton Building Company is the one handling the details of the contest. However, it is apparent that the Stanton Building Company and the James H. Stanton Realtors are closely connected and that the salesmen of the James H. Stanton Realtors assist in the contest in some manner as they place their name at the bottom of each "Statistical Report on Advertising."

Also, there are two inquiries on the form which are unrelated to the purpose for which the Stanton Building Company states the forms are designed. These are "I (do) (do not) own my own home," and "I (am) (am not) interested in buying one of your homes." These inquiries are pointed toward the sale of Stanton Homes and could be called the soliciting of sale of real property. The plan probably is that if a person should answer that he is interested in buying a Stanton Home by making the appropriate indication on the form, a salesman of the James H. Stanton Company, Realtors would contact that person and attempt to complete a sale.

Even though we do have licensees participating in the conducting of a contest in connection with which the sale of real

Honorable J. W. Hobbs

property is solicited, the licensees so participating are not violating Section 339.100, Clause 11, supra. The reason is that the purpose of conducting the contests is not for the influencing of purchasers or prospective purchasers of real property. There is nothing involved in the contest which would in anyway influence, induce or be incentive for a person to purchase a Stanton home.

CONCLUSION

It is the opinion of this office that the offering of a radio through weekly or biweekly drawings to induce persons passing through model homes to fill out a statistical report on advertising for the company erecting the homes is not a violation of Section 339.100, Clause 11, RSMo 1949, and the licenses of licensees selling homes are not in jeopardy. The purpose of the contest is not to influence purchasers or prospective purchasers of real property. We are not at this time passing upon the legality or illegality of the acts of the Stanton Building Company and the James H. Stanton Company Realtors in carrying out the above described procedure in the light of other laws of the State of Missouri. We are only looking at these acts in the light of the real estate license statutes to determine if said acts constitute a violation of the above mentioned real estate license laws.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Richard W. Dahms.

Very truly yours,

John M. Dalton
Attorney General

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