

MISSOURI REAL ESTATE
COMMISSION:

The Missouri Real Estate Commission cannot pay to the Missouri Real Estate Association twenty-five dollars a month for postage on the Missouri Real Estate Association Bulletin, as the legislature has not appropriated funds to the Commission for that purpose.



January 11, 1957

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 to this office dated December 11, 1956, and reading as follows:

"The Missouri Real Estate Association, a state association of real estate licensees, publish a monthly bulletin to its members. This commission has never had an appropriation or allowance for the expense of education to applicants or licensees.

"The members of the commission have been invited to use the service of the above bulletin with information in regard to our rules and regulations, the requirements of the Missouri Real Estate License Law, the explanation of subjects used in the examination for licenses, etc.

"The request for an opinion is: Can this commission pay to the Missouri Real Estate Association, through the State Treasurer, the amount of twenty five dollars a month, to be used as postage in mailing the monthly bulletin to members?"

The Missouri Real Estate Commission was created by Section 339.120, RSMo 1949. That section reads in part as follows:

"There is hereby created the 'Missouri Real Estate Commission,' * * * for the purpose of carrying out and enforcing the provisions of this chapter. * * *."

In order for the Missouri Real Estate Commission to pay any funds over to the Missouri Real Estate Association to be used as postage on the bulletin of the above named association, there would have to be an appropriation by the legislature to the Missouri Real Estate Commission for that specific purpose. There has been no such appropriation.

Honorable J. W. Hobbs

Section 339.070, RSMo 1949, provides as follows:

"All fees and charges payable under this chapter shall be collected by the division of collection in the department of revenue. No money shall be paid out of this fund except by an appropriation by the general assembly. Warrants shall be issued monthly, upon the state treasurer out of this fund only, for the payment of the salaries and all necessary expenses of said commission. Vouchers for said salaries and expenses shall be first approved by the commission. Any surplus remaining in said fund at the end of the biennium shall be paid into the general revenue fund. The total expense for every purpose incurred by the commission shall not exceed the total fees and charges collected and paid into the state treasury."

As can be seen from this section, the Commission receives its operating funds through appropriations from the legislature and no moneys can be paid out without an appropriation from the legislature. The legislative appropriation for the Commission, beginning July 1, 1955 and ending June 30, 1957, is found at page 179 of the Laws of 1955, and is Section 7.380 of the Laws of 1955. The legislature, in that section, appropriated \$98,000.00 total to the Commission for the use of the Commission. None of this \$98,000 was appropriated to the Commission to be given by the Commission to the Missouri Real Estate Association to be used as postage for that association's bulletin. All of the money was appropriated "for the use of the Missouri Real Estate Commission." The appropriation would be violated if any part thereof was to be used for any purpose other than that for which it was specified in the appropriation section. The use of a part thereof for postage on the Missouri Real Estate Association Bulletin would not be using the money for the purposes for which it was appropriated.

CONCLUSION

It is therefore the opinion of this office that the Missouri Real Estate Commission cannot pay through the State Treasurer to the Missouri Real Estate Association twenty-five dollars a month to be used as postage on the Missouri Real Estate Association Bulletin as the legislature has not appropriated funds to the Missouri Real Estate Commission to be used for that purpose.

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

Yours very truly,

JOHN M. DALTON
Attorney General