

Board of Clemency in their regular order and in accordance with the provisions of Section 2171, General Code, and the Ohio Board of Clemency continues the hearing of such cases for an indefinite period, it is my opinion that such prisoners must again be recommended as eligible for parole by the warden and chaplain of the Ohio Penitentiary and notice thereof must be given as provided by Section 2171, General Code.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1920.

REAL ESTATE LICENSE—GRANTING OF TWO LICENSES TO ONE PERSON—MUST PAY TWO FEES.

SYLLABUS:

Where a real estate salesman makes application for two salesman's licenses, one to act for one company and one to act for another company, a fee of \$2.00 must be paid for the issuance of each license.

COLUMBUS, OHIO, March 30, 1928.

HON. CYRUS LOCHER, *Director of Commerce, Columbus, Ohio.*

DEAR SIR:—This will acknowledge your recent communication, as follows:

“A salesman makes application for two salesman's licenses, one to act for one company and one to act for another company. Both companies recommend him and request that he be licensed for both companies.

Is the board right when it requires that \$2.00 be paid for each license?”

The answer to your question necessitates an examination of the purpose and end sought by the Legislature in requiring licenses from real estate salesmen. The term “real estate salesman” is defined in Section 6373-25 of the General Code, as follows:

“‘Real estate salesman’ means a person, who for a commission, compensation or valuable consideration, is employed by a licensed broker, to sell, or offer for sale, or to buy, or to offer to buy, or to lease, or to offer to lease, rent, or offer for rent, any real estate, interest therein or improvement thereon.”

From this definition it is obvious that a non-technical definition would be that a real estate salesman is one who works for a licensed real estate broker in the real estate business. The essential feature is that of his employment by a licensed broker. The license, accordingly, is for the purpose of permitting the salesman to be so employed.

This conclusion is substantiated by other provisions of the license law. For example, Section 6373-34 of the Code requires that the license of a real estate salesman shall show the name of the real estate broker by whom he is or is to be employed. Section 6373-36 of the Code contains the following language:

"The license of both the real estate broker and the salesman employed by him shall be prominently displayed in the office or place of business of the real estate broker, and no license shall authorize the licensee to do business except from the location stipulated therein. The license of each real estate salesman shall be mailed to and remain in the possession of the licensed broker by whom he is or is to be employed until cancelled, or until such licensee shall leave the employment of such broker. Immediately upon the withdrawal of a real estate salesman from the employment of a broker, the broker shall return the salesman's license to the state board of real estate examiners' for cancellation. * * * "

Section 6373-37 of the Code is as follows :

"The state board of real estate examiners shall prepare and deliver to each licensee a pocket card, which card among other things shall contain an imprint of the seal of the board and shall certify that the person whose name appears thereon is a licensed real estate broker or real estate salesman, as the case may be, and if it is a real estate salesman's card it shall also contain the name and address of his employer. The matter to be printed on such pocket card, except as above set forth, shall be prescribed by the board."

These provisions make it fairly clear that the employment of a real estate salesman by a licensed broker is an essential factor in the matter of the salesman's license. With respect to the fee to be paid for a real estate salesman's license, Section 6373-39 is as follows :

" * * *

2. For a real estate salesman's license, \$2.00 for the first year and \$1.00 for each renewal thereof."

* * * "

Since the matter of employment is an essential factor with respect to a real estate salesman's license, as above indicated, it follows necessarily, in my opinion, that in the instance you cite, where one individual makes application for a license to act for two separate companies, two separate licenses must issue. There being no provision in law for the issuance of duplicate licenses so that the statutes could be complied with by filing duplicates in the office of the two brokers, I feel that the licenses must be treated separately and consequently the fees in each instance must be the same as if separate individuals were being licensed. That is to say, since the employment is the essential factor and there are two employments, each license requires the payment of its separate fee, and accordingly the conclusion of the board is correct that \$2.00 must be paid for each license.

Answering your question specifically, therefore, I am of the opinion that, where a real estate salesman makes application for two salesmen's licenses, one to act for one company and one to act for another company, a fee of \$2.00 must be paid for the issuance of each license.

Respectfully,
EDWARD C. TURNER,
Attorney General.