



# STATE OF CONNECTICUT

## STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 86-7

Employee of the Real Estate Division Department  
of Consumer Protection Maintaining an Active  
Real Estate License

A special investigator in the Department of Consumer Protection has held a real estate broker's license since 1961. Since 1961 there have been no complaints filed against him for his actions as a real estate broker, and he has met all the requirements for licensure. In January 1985 he was transferred within the Department from the Occupational Licensing Division to the Mobile Manufactured Home Division, a component of the Real Estate Division. His broker's license, which expires annually on April 30 (subsection 20-314(d), General Statutes), was renewed without difficulty in 1985. When he applied for renewal in 1986, however, he was advised that his license would not be renewed because of the possibility of a conflict of interests.

One of the responsibilities of the Real Estate Division is administration of Chapter 412, General Statutes, Mobile Manufactured Home Parks, Owners and Residents, and the regulations implementing it. Administration is conducted principally by the Mobile Manufactured Home Division, to which the special investigator is assigned. He investigates applications for licenses for mobile manufactured home park operators and complaints against parks or their licensees.

Another major responsibility of the Real Estate Division is supporting the Real Estate Commission and the Commissioner of Consumer Protection in the issuance of real estate brokers' and salesmen's licenses, and oversight of the conduct of licensees. The Division processes the applications for issuance and renewal of real estate licenses, which may be awarded only to those who bear a good reputation for honesty, truthfulness, and fair dealing and who are competent to transact the business of a real estate broker or salesman in a manner safeguarding the interests of the public. Subsection 20-314(a), General Statutes. On a number of grounds the Real Estate Commission may temporarily suspend or permanently revoke a real estate license it has issued. Section 20-320, General Statutes; sections 20-328-1 through 20-328-18, Regulations of Connecticut State Agencies. No person may act as a real estate broker or salesmen without a license issued by the Department of Consumer Protection under authorization of the Real Estate Commission, and doing so is an offense punishable by a fine and imprisonment. Sections 20-312, 20-325, General Statutes. Complaints against real estate licensees, which can lead to

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suspension or revocation of their license, are investigated by members of the Real Estate Division staff.

Because of the involvement of Real Estate Division staff members in the issuance, renewal, suspension, and revocation of real estate licenses, and the disciplining of real estate licensees, it has been customary for those employed by the Division to put in escrow any real estate license held. Perhaps because the position did not require the expertise of a real estate licensee, the Division did not inquire whether the special investigator held a real estate license when he was transferred into the Real Estate Division. It was an oversight when his license was renewed in the spring of 1985. In 1986 the fact of his employment in the Real Estate Division was noticed and renewal of his license was denied.

The special investigator's responsibilities are almost exclusively to the Mobile Manufactured Home Division. He does not participate in the real estate licensing process, nor does he investigate complaints against real estate licensees.

The public could not have any confidence that licensees would meet the criteria established for the protection of the public, or that complaints against licensees were being investigated objectively and thoroughly, if the process were carried out by members of the Real Estate Division and the licensees were Division members. Furthermore, the department of Consumer Protection may "employ and assign such personnel as the commissioner deems necessary for the performance of each board or commission's function" (subdivision 21a-8(2), General Statutes) and employ the persons necessary to enforce the statutes assigned to her responsibility (section 21a-11, General Statutes). If the Commissioner of Consumer Protection wishes to be able to assign a staff member to duties in which there would be an obvious conflict of interest under subsection 1-84(a), 1-84(b), or 1-84(c) of the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes, if the person held a real estate license, she should be able to deny the employee the license which would prevent flexibility of assignment. Furthermore, the Commissioner should be able to maintain both the actual and the apparent integrity of the real estate licensing process.

In summary, no public official or State employee in a component, such as the Real Estate Division, of the Department of Consumer Protection which has direct and significant responsibility for the issuance, renewal, suspension, or revocation of real estate licenses or for the supervision and discipline of real estate licensees should hold an active real

estate license or engage in the real estate business unless there is specific statutory authority allowing it. Renewal of a real estate license should be denied, the license placed in escrow, or the licensee should provide assurance in some formal way that he or she while in that State service will not engage in the business otherwise permitted by the real estate license, unless the legislature has determined that the value of having someone currently licensed outweighs the detriment of conflicts of interests under the Code of Ethics for Public Officials.

By order of the Commission,

A handwritten signature in cursive script that reads "Julie Peck".

Julie Peck  
Chairperson

Dated June 5, 1986

