



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

JOHN BEN SHEPPERD
ATTORNEY GENERAL

July 9, 1953

Hon. L. D. Ransom
Administrator

Texas Real Estate Commission
Austin, Texas

Letter Opinion MS-70

Re: Legality of real estate
dealers offering gifts
to persons who submit
names of prospects or
"leads".

Dear Sir:

In your recent letter you ask this office for an opinion on whether the following premium offers by real estate dealers are prohibited under Article 6573a, Section 20, Vernon's Civil Statutes:

- A. Offer of premium to a property owner who lists his property with the dealer.
- B. Offer of premium to any other person than owner who submits a "lead" which results in dealer getting listing from owner.
- C. Offer of premium to any person other than buyer or seller submitting the name of a prospect.

The pertinent part of Section 20 declares unlawful an offer by a real estate dealer of a share of his commission to an unlicensed person in consideration of services performed or to be performed.

Porizky v. Olinger, 177 S.W.2d 995 (Tex.Civ.App. 1943) holds:

"The inhibition of Sec. 20 above patently relates to an unlicensed person performing some service toward effectuating the purchase, sale, or exchange of realty, and not to the principals involved in such transaction."

Hon. L. D. Ransom, page 2 (MS-70)

Bell v. Stephenson, 187 S.W.2d 153 (Tex. Civ. App. 1945) decides:

"It is clear that only where a real estate agent pays, etc., a portion of his commission to another person 'in consideration of service performed or to be performed by such unlicensed person' is such act prohibited."

Means v. Porter, 216 S.W.2d 269 (Tex.Civ.App. 1949, error ref. n.r.e.) holds that where the purchasers were not claiming commission for services performed or to be performed in connection with the transaction, but were claiming part of a dealer's commission as an agreed reduction in the price of land, the oral contract sued upon did not violate Section 20 of Article 6573a.

Therefore, it is the opinion of this office that an offer of premium to a property owner who lists his property with the dealer does not violate Section 20 of Article 6573a.

Our Texas Supreme Court in Gregory v. Roedenbeck, 141 Tex. 543, 174 S.W.2d 585 (1943) stated:

"We further hold that the performance for compensation of one act by a person in connection with the procurement of a prospect for the sale or purchase of real estate, constitutes such person performing the act a real estate dealer within the meaning of the Real Estate Dealer's License Act."

Therefore, it is the opinion of this office that Section 20 of Article 6573a prohibits an offer of premium to any other person than the owner who submits a "lead" which results in a dealer getting a listing from an owner, and prohibits an offer of premium to any person other than the buyer or seller submitting the name of a prospect.

Yours very truly,

JOHN BEN SHEPPERD
Attorney General

By
Horace Wimberly
Assistant

HW:rt:am