

Opinion No. 56-6379

February 3, 1956

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Theodore Benninghoven, Executive Secretary, New Mexico Real Estate Board, Room 511, Simms Building, Albuquerque, New Mexico

We have your recent letter in which you request an opinion from this office upon the following fact situation.

A licensed real estate broker has entered into a contract with an owner of a tract of land wherein the broker, at his expense, will subdivide an acreage tract into specified lots, with the broker having the exclusive right to sell the subdivided tracts. There is a provision for fees, to the broker.

The question raised by your letter is whether or not, under the above outlined arrangement, the person selling such tracts will be required to have a Real Estate Brokers License under the law of the State of New Mexico.

It is the opinion of this office that under the provisions of the contract that the broker would be required to be licensed under the laws of the State of New Mexico. This contractual arrangement does not fall within the exceptions set forth in § 67-24-2, N.M.S.A., 1953. We note that the actual owner of the land signs all of the contracts of sale, so it seems to this office that clearly the Real Estate Broker is acting in the capacity of a broker in this situation, and would have to comply with the laws of the State of New Mexico relating to licenses.

Trusting we have answered your question, we remain

By Paul L. Billhymer

Assistant Attorney General