

Opinion No. 63-110

August 23, 1963

BY: OPINION of EARL E. HARTLEY, Attorney General

TO: Mr. Paul R. Brown, Executive Secretary Real Estate Commission 1018 Simms Building Albuquerque, New Mexico

QUESTION

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Is the Commission vested with authority to require an applicant for a real estate broker's license to have served an apprenticeship in active practice as a duly licensed real estate salesman for a period of at least one year prior to the date of application under a duly licensed real estate broker, or upon application require the applicant to give proof of experience equivalent to a year's apprenticeship?

CONCLUSION

No.

OPINION

{*242} ANALYSIS

In your letter you state that § 67-24-21, N.M.S.A., 1953 Compilation, vests the Commission with authority to make and enforce rules and regulations to carry out the provisions of the Act. You further state that § 67-24-26 places the burden on the Commission to determine the "good repute and competency" of the applicant. However, it should be noted that § 67-24-26, supra, requiring the Commission to determine the reputation and competency of an applicant, also sets out the requirements to be met by the applicant in establishing his reputation and competency. Section 67-24-27, N.M.S.A., 1953 Compilation, further specifies the information which must accompany an application, and this information is designed to prove to the Commission the applicant's reputation, in addition to a written examination which is designed to prove the applicant's competency. It should be further noted that § 67-24-28 states in the beginning that the "Commission shall **issue to each applicant qualified under the terms of this Act** a license in such form and size as shall be prescribed by the Commission: . . ." There is a proviso in this section for further requirements to be met before the license is issued. It should be noted that there is nowhere in the Real Estate Broker's and Salesman's Act a requirement that an apprenticeship be served before an applicant can apply for a Broker's license. To the contrary the section specifically sets out the means to be used by the Commission in determining applicant's reputation and competency. In the absence of legislation empowering the Commission to require a

year's apprenticeship by an applicant for a Broker's license, it is our opinion that the Commission does not have authority to make such a requirement.

By: James E. Snead

Assistant Attorney General