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ALABAMA REAL ESTATE COMMISSION
MONTGOMERY, ALABAMA

Honorable D. Philip Lasater
Executive Director
Alabama Real Estate Commission
1201 Carmichael Way
Montgomery, Alabama 36106

Real Estate Commission – Social Security Numbers – Licenses – Renewal

The Alabama Code requires that any licensing agency charged with the duty to record Social Security numbers and report the numbers to the state's Title IV-D agency do so for any application, whether a new application or an application for renewal.

The Alabama Real Estate Commission must record the Social Security numbers with each licensing application submitted.

Dear Mr. Lasater:

This opinion of the Attorney General is issued in response to your request on behalf of the Alabama Real Estate Commission.

QUESTION

Does having obtained a Social Security number for an applicant/licensee, either upon application ***or*** renewal, for the purpose of having the Social Security number on record in order to respond to Title IV-D agency, comply with the law set out in section 30-3-194 of the Alabama Code?

FACTS AND ANALYSIS

The facts in your letter indicate the Alabama Real Estate Commission ("Commission") has recently received a compliance audit report from the Examiners of Public Accounts. This report cited the Commission for failure to properly report Social Security numbers pursuant to section 30-3-194 of the Code of Alabama, or in compliance with the advice given by this Office in an opinion to the Honorable Regina A. Dinger, dated June 21, 2010, A.G. No. 2010-074. In the Dinger opinion, this Office determined that the entire nine digit Social Security number must be recorded on renewal applications.

Your letter requests reconsideration of Opinion 2010-074 and the statutory interpretation assigned by this Office to section 30-3-194(a) of the Code. Specifically, in your letter of request, you stated the following:

> The Real Estate Commission would assert that it has complied with the requirement of section [30-3-194] and is in a position to provide the state Title IV-D agency the Social Security number of any real estate licensee for which it might have reason to request and is the stated purpose for which the section exists. Please reference paragraph (a)...***shall require all applicants for issuance OR renewal of the license...to provide the applicants' Social Security number on the application and related records maintained by the agency***. I understand the law is that statutes are to be given the meaning of their plain language. The plain language of the statute says "or." In order for it to mean what Examiners are saying, the statute would have to say "and." I do not believe the Attorney General was focused on this precise question when the opinion at issue was written.
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> The Real Estate Commission, from the time of the enactment of this statute has obtained Social Security numbers from all new license applicants. Following implementation of this section, the Real Estate Commission obtained

> Social Security numbers from existing licensees through the renewal application process. We do not believe the intent of the section was to instruct licensing agencies to continue to again and again collect the Social Security numbers of licensees once it had them on record and maintained. To do so is a redundancy that serves no practical purpose and would compromise the security of an integral aspect of personal identity. But more than logic, we would point to the construction of the language in paragraph (a) cited above and we believe the accurate intended reading would be for any agency to collect a Social Security number from an applicant when first licensed OR from an existing licensee upon next renewal of that license. Why, in order to obtain the Social Security number. This done, it then makes no sense to assert that an agency place or require placing a Social Security number on future renewal applications that are sent back and forth through the US Postal System.

As noted in your request, section 30-3-194(a) of the Code states that "any agency charged with the issuance or renewal of a license shall require ***all applicants*** for issuance or renewal of the license, certificate, permit, or commercial authorization to provide the applicants' Social Security number to the agency..." ALA. CODE § 30-3-194(a) (2001) (emphasis added).

Webster's Third International Dictionary defines "or" as a function word that is used to indicate: "(1) An alternative between different or unlike things, states, or actions; (2) Choices between alternative things, states, or courses; (3) The synonymous equivalent or substitutive character of 2 words or phrases; (4) A correction or greater exactness or meaning." Webster's Third New International Dictionary 1585 (2002). Archaically, the word may also be used to signify "either." *Id.*

Within the statutory language of section 30-3-194 of the Code, this Office interprets "or" as a connector between similar or equivalent types of applicants. Therefore, in paragraph (a), the purpose of the term is to provide a "greater exactness" to the requirement that all applicants provide their Social Security number. Such an interpretation is also justified because on initial passage of this legislation, the Legislature

sought to require that the Social Security numbers of either type of applicants be properly recorded.

Moreover, the purpose for recording Social Security numbers is to ensure the numbers are available in a timely manner whenever the Title IV-D agency makes such a request. ALA. CODE § 30-3-194(e) (2001). Because there is a chance that a person may apply to have his/her Social Security number changed to correct a problem, repeated submission of the Social Security number ensures that the most accurate information is in the record and may be supplied in a timely manner to the Title IV-D agency. Nothing in section 30-3-194 of the Code limits the requirement of a nine-digit Social Security number to certain applicants.

Based on the foregoing, it is still the opinion of this Office that any agency subject to section 30-3-194 of the Code must require all applicants, whether for issuance or renewal, to submit his/her Social Security number.

CONCLUSION

The Code of Alabama requires that any licensing agency charged with the duty to record Social Security numbers and report the numbers to the state's Title IV-D agency do so for all applicants, whether a new applicant or renewal applicant. The Alabama Real Estate Commission must record Social Security numbers with each licensing application submitted.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

LUTHER STRANGE
Attorney General
By:

BRENDA F. SMITH
Chief, Opinions Division

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