

1980 WL 120886 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 22, 1980

**\*1 RE: Notifying Commission Members of All Complaints Against Real Estate Brokers**

Fred B. Beall  
Commissioner  
South Carolina Real Estate Commission  
2221 Devine Street  
Suite 530  
Columbia, South Carolina 29205

Dear Mr. Beall:

Your letter of September 15, 1980, has been referred to me by Mr. McLeod for a response.

You have asked the opinion of this Office whether individual members of the South Carolina Real Estate Commission should be notified of complaints against brokers in their congressional districts upon receipt by your office of such complaints. It is the opinion of this Office they should not be so notified.

The specific duties of the Commission members are found in [South Carolina Code § 40-57-50](#) of the South Carolina Code of Laws, as amended in 1978. The Commissioners are authorized to ‘. . . establish the policy, issue general rules and regulations, and advise the Real Estate Commissioner in carrying out the provisions of this chapter.’ The sole place where the individual Commissioners have any specific duty to perform beyond appointing the Real Estate Commissioner is found in § 40-57-220 where the Commission is statutorily liable for holding a hearing on any matter appealed from a decision of the Commissioner. Section 40-57-220 specifically requires that one of the members of the Commission sitting on an appeal must be from the congressional district from which the appellant resides. Therefore, it is the opinion of this Office that the statute establishing the procedure by which appeals from decisions from the Commissioner are heard had clearly in mind that the Commission should sit as an appellate review and that the Commission member from the congressional district of the appellant should be required to be a member of the Commission panel that hears the specific review in question. From a due process view point, it is the opinion of this Office that any prior knowledge by a member of the Commission appeals panel of the specific complaint on appeal would be inappropriate.

This Office is not unmindful of the good motives of the Commission members in requesting that they be informed of alleged violations by brokers in their district, but it is the opinion of this Office that such information should not be given in order to protect the appeals process as outlined by the Commission's enabling statute.

If you have any further questions on this matter please feel free to contact me directly.

Sincerely yours,

William P. Simpson  
Assistant Attorney General

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