



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
ANTITRUST: 296-5299

May 30, 1984

ATTORNEY GENERAL OPINION 84- 45

J. Paul Flower, Director  
Kansas Real Estate Commission  
217 East Fourth  
Topeka, Kansas 66603

Re: Laws, Journals and Public Information -- Open Records Act -- Lists of Names Derived from Public Record

Personal and Real Property -- Real Estate Brokers and Salesmen -- Educational Requirements

Synopsis: Section 5(a)(3) of 1984 Senate Bill No. 654 authorizes the Kansas Real Estate Commission to provide the names of persons licensed under the Real Estate Brokers and Salesmen Act to organizations and institutions authorized to provide educational courses and materials to such licensees under K.S.A. 58-3046a(d). Such lists may be sold or given to the authorized organizations for the sole purpose of providing the persons listed with information relating to the availability of educational materials or courses offered by such organizations. Cited herein: 1984 House Bill No. 654; K.S.A. 58-3046a.

\* \* \*

Dear Mr. Flower:

You have requested our opinion regarding 1984 Senate Bill 654, which was signed into law on April 17, 1984. In particular you ask whether section 5(a)(2) of that bill (which amends another 1984 bill which corrected defects in the 1983 Open Records Act) authorizes the Real Estate Commission to sell or give lists of

J. Paul Flower  
Page Two

names of persons licensed under the Real Estate Brokers and Salesmen Act to providers offering continuing education courses as required by K.S.A. 58-3046a(d).

Relevant portions of 1984 Senate Bill 654 provide:

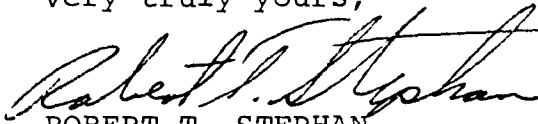
"No person shall knowingly sell, give or receive, for the purpose of selling or offering for sale any property or service to persons listed therein, any list of names and addresses contained in or derived from public records except: . . . (2) lists of names and addresses of persons licensed, registered or issued certificates or permits to practice a profession or vocation may be sold or given to, and received by, an organization of persons who practice that profession or vocations for membership, informational or other purposes related to the practice of the profession or vocation; (3) lists of names and addresses of persons applying for examination for licenses, registrations, certificates or permits to practice a profession or vocation shall be sold or given to, and received by, organizations providing professional or vocational educational materials or courses to such persons for the sole purpose of providing such persons with information relating to the availability of such materials or courses; and (4) to the extent otherwise authorized by law." (Emphasis Added.)

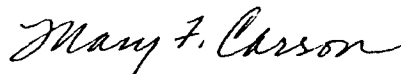
The authorization to sell or give lists of names found in Section 5(a)(2) would appear to be limited, in the case of the Real Estate Commission, to professional organizations of realtors like the Kansas or National Association of Realtors and for the purposes listed in the section. Section 5(a)(3), however, applies directly to the question you have raised. As you point out, K.S.A. 58-3046a requires a licensed real estate broker or salesperson, when applying for license renewal, to submit evidence of attendance at not less than eight hours of additional instruction during the period preceeding the renewal of the license. K.S.A. 58-3046a(d) lists the institutions and agencies which are approved to offer courses of instruction which will satisfy the continuing instruction requirement. Under section 5(a)(3), it is permissible to provide the lists of names of persons applying for licenses, registrations, certificates or permits to practice a profession to those organizations which provide professional educational materials or courses.

J. Paul Flower  
Page Three

In our opinion, this applies not only to the initial application for a license but also to license renewal applications, particularly when there are educational requirements which a licensee must satisfy before renewal. Thus, under 1984 Senate Bill 654, section 5(a)(3), the Commission may provide lists of names of persons licensed under the Real Estate Brokers and Salesmen Act to organizations authorized to provide continuing education courses and materials to such licensees under K.S.A. 58-3046a(d). Such lists may be sold or given to the authorized organizations for the sole purpose of providing the persons listed with information relating to the availability of educational materials or courses offered by such organizations.

Very truly yours,

  
ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS

  
Mary F. Carson  
Assistant Attorney General

RTS:BJS:MFC:crw