



State of Tennessee
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Tennessee State Library and Archives
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Nashville, Tennessee 37243-0312

**TENNESSEE REAL ESTATE COMMISSION,
MEMPHIS OFFICE RECORDS,
1951-1970**

RECORD GROUP 56

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SCOPE AND CONTENT

The Tennessee Real Estate Commission was established in 1951 by the state's General Assembly to regulate real estate sales in the public interest. Only nine counties, those with a population of 50,000 or more, were included in the original legislation, but the Commission's jurisdiction was expanded by subsequent legislation until 1963 it acquired responsibility for real estate operations throughout Tennessee. As the Commission's responsibility grew, so did its membership; the three commissioners authorized by the legislation of 1951 were increased to five by an amendment passed in 1959.

The Commission's first task, and on that remained a primary responsibility, was the imposition--through examinations and annual licensing--of minimum professional standards on the state's real estate brokers and salesmen. It also negotiated reciprocity agreements with other states, permitting the transfer of real estate licenses between states. Relation with regulatory agencies in other states, both informally and through the Commission's membership in the National Association of License Law Officials, encouraged uniformity of professional standards.

The enabling legislation delegated to the Real Estate Commission a major disciplinary responsibility: it was empowered to investigate complaints about alleged frauds, hold hearings and, when circumstances warranted, suspend or revoke licenses. One of the early commissioners attempted to draw a distinction between regulating the profession and policing it. (See Herbert Jordan's letter of J. Kirk Graves, January 23, 1952, Folder 1-2, in which Jordan wrote that "we are a licensing and regulatory board and not a policing board.") In practice, however, no such distinction was possible. According to its first Executive Secretary, "the Commission was established primarily for the protection of the public," (see James E. Denham's letter to Pearle Woolf, July 31, 1953, Folder 9-11) and protecting the public against a variety of fraudulent practices and devious salesmen occupied much of the agency's attention.

Their disciplinary responsibilities caused the Commission and its staff much frustration. Inevitably, they had to distinguish between misrepresentation of the facts by a dishonest real estate agent and misunderstanding of the law by a naïve buyer or seller. Over half the complaints investigated by the Commission during its first years involved disagreements over which it had no authority and, in many instances, disagreements in which neither the letter nor the spirit of the law was violated. (See "TREC News and Views," Vol. 1, No. 1, October 23, 1951, Folder 10-12, also J. Kirk Graves' letter to James E. Denham, April 3, 1952, Folder 1-2.)

Another problem was the failure of many complaints to follow through on seemingly valid complaints. The Commission investigated each complaint it received, entailing the expenditure of both time and money. As its prestige increased, the mere possibility of disciplinary action by the Commission was frequently sufficient to persuade an unprincipled broker or salesman to return earnest money or deliver a deed. All too often citizens, on receiving financial justice, withdrew their complaints, leaving the Commission with no vehicle for the permanent exclusion of unscrupulous agents. This

situation provoked Commissioner Graves of Memphis to complain that people were using the Commission simply as a collection agency. (See his letter to James E. Denham, November 15, 1951, Folder 1-2) View in one light, it testified to the growing influence of the Real Estate Commission, but it was a sore point with the Commissioners, who relished the public approval that would accompany a decisive show of well-deserved punishment.

Even when with the citizen cooperation, the Commission could pursue a complaint to its conclusion, it was frequently an uphill struggle. Suspensions and revocations could be--and frequently were--appealed to the courts. While the Commissioners and their staff were willing to prosecute an apparently valid complaint, they were occasionally frustrated by the state's legal staff, which hesitated to test the Commission's power of the court. Even those cases which did reach the courts might consume months or years in legal proceedings, during which accused agents remained free to continue what the Commission considered dishonest practices. "I am disappointed," wrote C.D. Askew, "and I think the other Commissioners likewise, in our inability to enforce what we think are the regulations." (See his letter to John K. Maddin, January 10, 1957, Folder 1-10)

Both the caution of the Attorney General's office and the attitude of the courts restricted the Commission's disciplinary authority within narrow limits in its early years. In 1954 the Commission regretted its inability to punish a dishonest agent because, at the time of the alleged fraud, he was not acting specifically in the capacity of a real estate broker. (See C.D. Askew's letter to James E. Denham, December 3, 1954, Folder 6-14) Two years later the Commission's revocation of a broker's license was overturned in court by a ruling that its "power to revoke is limited to acts performed for others as a real estate broker." (See James M. Swiggart's letter to C.D. Askew, December 19, 1956, Folder 7-14) The court thus held that the Commission could not revoke a license simply because the holder was a bad person. Other courts--notably those of Iowa, Missouri and California--were reaching similar decisions. (See the Brief of Facts submitted June 28, 1961 in the Godwin case, Folder 5-10)

In the 1960s, perhaps as a reflection of the growing acceptance of consumer protection as an obligation of the state, the Real Estate Commission acquired broader disciplinary authority. In 1961, following his fraud conviction in a state court, the Commission moved against a broker whose activities it had helplessly disapproved since 1954. After three years of legal maneuvers, the state Supreme Court finally vindicated the Commission. "This was a test case for the Commission," wrote its Executive Secretary, "as the broker was operating outside his duties as a real estate broker. We feel this is a great victory in Tennessee for our licensing law." (See Marilyn Gardner's letter to B.J. Shuman, September 9, 1964, Folder 5-11) Indeed, the decision of the Tennessee Supreme Court was hailed as a victory by regulatory agencies across the county. (See the case file of E.H. Godwin, Folders 5-9 through 5-14.)

Despite occasional setbacks, the Commission was a success from the beginning. The examination and licensing requirements eliminated many potential problems arising from ignorance rather than dishonesty on the salesman's part. The state's real estate leaders, aware that self-regulation would improve the profession's public image, were

cooperative. The Commissioners apparently considered it a part of their responsibility to improve the public's opinion of the real estate profession. Aware of the impact of both bad and good publicity, the cultivated good relations with newspaper publishers and reporters. When a Memphis broker, charged with numerous violations, offered to surrender his license without a hearing, the Commission's legal adviser argued that a formal hearing would be more definitive and also that it would provide an opportunity for the public to see the commission in action. (See B.B. Gullett's letter to C.D. Askew, May 17, 1954, Folder 7-12)

Occasionally, the exercise of its mandated responsibilities required the Commission to confront problems beyond the scope of the existing laws and regulations. One such situation was the appearance in Tennessee of national "business brokers," operations which, promising a national market to small businessmen interested in selling, actually yielded little or no success. The effort to control such operations in the best interest of Tennessee's consumers brought the Commission into conflict with large, wealthy national firms employing expert legal advice. Tennessee's Real Estate Commission cooperated in this lengthy struggle with other regulatory agencies across the country, which were equally dubious about the legitimacy of the "business brokers." (See the case files of Heinz, Johnson, Dunn & Associates, Folders 6-2 through 6-6, and Maynard Mook, Folders 7-8 and 7-9)

The Commission also found itself an unwilling participant in one area of racial conflict. Its formation coincided roughly with the divisive appearance in Tennessee's urban communities of "block-busting." This practice offered irresistible opportunities to unscrupulous real estate brokers and salesmen. The Commissioners resented being drawn into the block-busting controversy: "they're trying to dump this into our laps," complained Commissioner Graves of Memphis, "and I'm trying hard to keep from getting into it." (See his undated note to James E. Denham, with clippings in Folder 7-14)

Despite its reluctance to become involved, the Commission could not completely ignore the controversy, as it was obligated to investigate alleged misrepresentation by brokers accused of block-busting. In a public hearing in Memphis in July 1953, the Commissioners declined to take action against a Memphis broker who had sold previously white homes to Negro families, causing rage, fear, threats and a bombing. The Negro home buyers who had filed complaints charging misrepresentation had suddenly and unanimously withdrawn their complaints. Despite the loss of their witnesses and thus of their formal justification for disciplinary action, wrote Secretary Denham, "we deemed it necessary to at least hear the case due to the publicity." (See his letter to Robert Semenow, July 16, 1953, Folder 7-10) At the hearing, the Commissioners stated their opinion that "the problem of negroes moving into white neighborhoods" was a community rather than a regulatory problem. (See the Press Scimitar and Commercial Appeal clippings from July 14, 1953, Folder 7-14. Folders 7-10 thru 7-14 include detailed information on the problem of block-busting.)

The Commission's first few years were a developmental period, requiring extensive personal involvement by the Commissioners. J. Kirk Graves, the first Memphis commissioner, found his duties encroaching so heavily on his real estate business that he refused the urging of his fellow commissioners to accept reappointment. Graves' task was especially onerous because the Memphis office accounted for over half the licenses issued in the nine counties covered by the original legislation. By January 1952, the Memphis office had given 154 examinations, and Graves was receiving 15-20 phone calls and holding 6-10 meetings each day on Commission business. (See his letter to Ernest P. Schumacher, January 7, 1952, Folder 1-2) By the 1960s, however, much of the Commission's work had been reduced to routine and was carried on by the office staff in Nashville and the regional offices.

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When the materials comprising Record Group 56 were received by the Archives, they were designated the records of the Memphis office. That designation has been retained, although records of the Nashville and Knoxville offices were also included and have been retained.

The records--especially the correspondence--were in some disorder when received; some of them appear to have been misfiled originally. It has thus been necessary to impose order on them. In this case, the order is based on the subject matter of the individual items, as such an arrangement appears to depict most vividly the scope and functioning of the Real Estate Commission. Insofar as possible, the records have been arranged according to subject, although routine correspondence dealing with office operations, travel arrangements, scheduling and the like has been filed by commissioner. Each file is arranged chronologically.

Since financial records were more systematically arranged when received in the Archives, the existing order was preserved as nearly as possible. Purely routine correspondence about fee forfeitures and publication sales had been sampled, as have the financial vouchers; in each instance, about ten percent of the original records have been retained. Sampling of the expense vouchers was done selectively, to give a clear idea what sort of expenses were paid in this manner: postage; printing; per diem and out-of-pocket expenses for commissioners, staff members, and witnesses at commission hearings; subpoena costs. Some financial records, such as monthly revenue and expense reports, which are duplicated in data maintained elsewhere, have been discarded.

The materials received by the Archives do not include all the documents produced by the Tennessee Real Estate Commission to date. Several cubic feet of disciplinary hearing files have not been turned over; there is no indication at this time when or if they will be. (Fortunately, the disciplinary files which were transferred are numerous and varied enough to give a clear idea of the type of violations the Commission encountered.) Also, the vast majority of the correspondence in Series I covers the period between 1951, the year of the Commission's establishment, and 1957. For subsequent years, through about 1970, there are only scattered pieces of correspondence. There is no indications why.

Likewise, the financial records received cover only a few periods. Finally, the records do not include correspondence of all the Commissioners, only the first two Memphis commissioners, the first Knoxville commissioner (all apparently fairly complete files) and a very few pieces--mostly expense account correspondence--from a later Knoxville commissioner.

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5	C.D. Askew, Correspondence	October 1953-January 1954
6	C.D. Askew, Correspondence	February 1954-May 1954
7	C.D. Askew, Correspondence	June 1954-October 1954
8	C.D. Askew, Correspondence	November 1954-August 1955
9	C.D. Askew, Correspondence	October 1955-October 1956
10	C.D. Askew, Correspondence	November 1956-March 1957
11	C.D. Askew, Correspondence	May 1957-November 1957
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*This includes correspondence only. If copies of the Manual are available in the building, they will be in the Library Department.

SUBJECT INDEX

The following topics either did not appear frequently enough in Tennessee Real Estate Commission records to warrant their isolation in separate subject files or were more practically included in some other subject file; however, they reflect some of the problems encountered by the Commission:

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