or leases, or negotiates the sale, exchange, purchase, rental, or leasing of, or offers, or attempts, or agrees to negotiate the sale, exchange, purchase, rental or leasing of or lists or offers or attempts or agrees to list, or appraises, or offers or attempts or agrees to appraise, or auction, or offers or attempts or agrees to auction, any real estate, or business enterprise, or the improvements thereon; * * */

It has been held that a statute clear and unambiguous on its face need not and cannot be interpreted by a court. Only statutes which are ambiguous and of doubtful meaning are subject to statutory interpretation.

Section 4502, Sutherland Statutory Construction, 3rd Edition;
Hood v. State (1906), 167 Ind. 622, 624;

Upon examination, the language used in defining “real estate broker” seems clear and unambiguous. The words “any real estate, or business enterprise, or improvements thereon” are the object of the whole series of actions preceding such words. It is my opinion that a business enterprise broker must obtain a license whether he is going to auction or sell, purchase, rent, etc., as set out in Section 22.

OFFICIAL OPINION NO. 50
June 7, 1951.

James M. Propst, Director,
Gross Income Tax Division,
141 South Meridian Street,
Indianapolis 13, Indiana.

Dear Sir:

I am in receipt of your letter of May 1, 1951, in which you request that I review the Attorney General’s Official Opinion of April 6, 1943, and that I by an official opinion indicate any revision, affirmation or obligation thereof.
In 1943, the Official Opinion referred to, it was held that personnel of the United States Public Health Service would not be included in the exempted class under Section 10 of the Gross Income Tax Act. After the rendition of said opinion the President of the United States by Executive Order No. 9575 on June 21, 1945, declared the Commission Corps of the Public Health Service to be a military service and a branch of the land and naval forces of the United States during the period of the present war. I have read Executive Order No. 9575 and it is my opinion that by said order that Public Health Service became a part of the Navy of the United States and it is my express opinion that as a result of said Executive Order the personnel of the Public Health Service became included in the exempted class set out in the Gross Income Tax Act.

You state in your letter that you too have such an opinion but that the “present war” is in a state of continuation and cannot officially end until cessation of hostilities have been proclaimed by Congress and that if you are correct in your view these “personnel” are still entitled to the exemptions set out in Section 10 of the Gross Income Tax Act.

Section 10 in part reads as follows:

“Notwithstanding any of the provisions of this act, members of the armed forces of the United States, including the Army, Navy, Marine Corps, Coast Guard and Merchant Marine, shall be exempted from the payment of such tax with respect to the compensation received for military or naval service, from and after December 31, 1941, while in active service in the present war, and with respect to any other income for which they are liable for the tax imposed by this act, they shall not be required to file any return therefor or pay any such tax thereon until six months after the termination of hostilities of the present war, and they shall not be required to pay any penalty or interest with respect thereto if such return is filed and the tax due thereon is paid on or before six months after such hostilities cease. * * *”

It is to be noted first that members of the Armed Forces are exempted from the payment of such tax with respect to
the compensation received from military or naval service while in active service in the "present war".

Second, they shall not be required to file any return or pay any tax until six (6) months after the "termination of hostilities" of the present war.

Third, they shall not be required to pay any penalty or interest with respect thereto if such return is filed on the tax due thereon is paid on or before six (6) months after "such hostilities cease".

In 1945 O. A. G. No. 104, page 407 to 413, it was held that although there was a termination of hostilities of the present war that the present war has not been terminated in the legal sense and will not so terminate until formal action is had by competent authority terminating the war and reestablishing peace. The war has not as yet by any Act of Congress been terminated.

In my opinion therefore, members of the Armed Forces are now exempt only from the payment of such tax with respect to the compensation received for military or naval service while in active service.

OFFICIAL OPINION NO. 51

June 8, 1951.

Public Employes' Retirement Fund,
707 Board of Trade Building,
Indianapolis, Indiana.
Attention: Mr. Ross Teckemeyer,
Executive Secretary.

Dear Sir:

I have your request for an official opinion as follows:

"Is a Municipal Utility owned and operated by a City or Town as provided for in Chapter 129 of the Acts of 1905 and other Acts supplemental or amendatory thereof, (BRS Vol. 9, part 2, 48-7201 to 48-7235) a proprietary function, or is the operation of a Municipal Utility a Governmental function?"