Mr. T. C. Dickson
Executive Secretary
Real Estate Commission
1022 State Office Building
Indianapolis, Indiana 46204

Dear Mr. Dickson:

This is in response to your request for my Official Opinion on the question of whether or not certain personnel of the Gary Housing Authority come within the provisions of the Indiana Real Estate License Law.

ANALYSIS

The Gary Housing Authority was created by and operates under the authority of the Housing Authorities Act, Acts of 1937, Ch. 207, as amended and found in Burns’ (1963 Repl.), Section 48-8101, et seq. That Act provides that a public body corporate and politic, known as the Housing Authority, is created in each city, town and county, and may exercise its powers after the governing body of the city, town or county has declared, by proper resolution, that there is a need for the authority to function.

The regulation of real estate brokers and salesmen is provided for in the Acts of 1949, Ch. 44, as found in Burns’ (1961 Repl.), Section 63-2407 which reads in part as follows:

"* * * it shall be unlawful for any person, firm, partnership, association or corporation to act as a real estate broker or real estate salesman without first having procured a license issued by Indiana real estate commission and to have kept the same unrevoked after issuance * * *

Your letter states that employees of the Gary Housing Authority, a public corporation, engage in such activities as buying, selling, renting, and leasing real estate to and from third parties, on and behalf of the corporation. Such employees act as agents for the corporation and receive a salary
for performing these functions. Such employees, therefore, come under the Indiana law (Burns' 63-2407, supra) requiring persons acting as real estate brokers or salesmen to be licensed.

These employees, performing such acts which require licenses for private firms, are no more immune to this licensing requirement than are employees of a non-public corporation, and it has been held that employees and agents of private corporations must obtain real estate licenses to engage in real estate transactions. 1949 O. A. G. No. 91, p. 344; 1949 O. A. G. No. 110, p. 418. This conclusion is consistent with 1952 O. A. G. No. 64, p. 248, wherein it was held that Housing Authorities perform not governmental, but proprietary functions.

It should be also noted that nowhere in the laws dealing with Housing Authorities (Burns' 48-8101 et seq.) has the Indiana Legislature exempted employees of Housing Authorities from the licensing requirements. Nor are there any strong policy reasons to do so. In fact, public policy compels the conclusion of this opinion that such employees must be licensed to act as real estate brokers or salesmen, because third persons dealing with Housing Authority employees are entitled to the same protection and security that come from dealing with private brokers who are licensed and regulated by the Indiana Real Estate Commission.

CONCLUSION

It is my opinion that personnel of the Gary Housing Authority who perform the same duties and functions as do private real estate brokers and salesmen must comply with the same Indiana law as they and obtain a license to deal in real estate transactions.