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FILE NO. S-1236

**CRIMINAL LAW:**

Whether the Illinois Commission  
on Human Relations Has the Duty  
of Monitoring the Anti-Solici-  
tation Act.

Connie Seals  
Executive Director  
Illinois Commission on Human Relations  
527 East Capitol  
Springfield, Illinois 62701

Dear Ms. Seals:

I have your letter wherein you request an opinion  
on whether the recent Illinois Supreme Court decision, People  
of the State of Illinois v. Betts Realtors, Inc., \_\_\_ Ill.  
2d \_\_\_ means the Illinois Commission on Human Relations is  
again charged with the duty of monitoring "AN ACT to prohibit  
the solicitation or inducement of sale or purchase of real

Connie Seals - 2.

estate on the basis of race, color, religion or national origin or ancestry". (Ill. Rev. Stat. 1975, ch. 38, par. 70-51.) Section 1 of the Act provides in pertinent part:

"It shall be unlawful for any person or corporation knowingly:

\* \* \*

(d) To solicit any owner of residential property to sell or list such residential property at any time after such person or corporation has notice that such owner does not desire to sell such residential property or does not desire to be solicited to sell or list for sale such residential property. For the purpose of this paragraph, a person has such notice (1) when the Human Relations Commission has mailed to him, pursuant to Section 4.1 of 'An Act to create a Commission on Human Relations and to define its powers and duties', approved August 8, 1947, as now or hereafter amended, a list containing the name and address of such owner, or (2) when he has been notified in writing that the owner does not desire to sell or list for sale such residential property."

In People of the State of Illinois v. Betts Realtors, Inc., \_\_\_ Ill. 2d \_\_\_ the court upheld that part of the Act which prohibits solicitation by a person after he had received notice in writing by the owner that the owner does not desire to sell his residential property. The court held:

" \* \* \*

The General Assembly has concluded that limiting the solicitation of the sale or listing

Connie Seals - 3.

for sale of residential property serves to further the goals which the Act is intended to achieve and in the light of these authorities we see no constitutional infirmity in section 1(d)(2) (Ill. Rev. Stat. 1973, ch. 38, par. 70-51(d)(2)).

\* \* \*

"

You now ask whether this decision requires the Human Relations Commission to enforce the Act. The Supreme Court in People v. Tibbits (1973), 56 Ill. 2d 56, determined that the Commission's authority to enforce the Act was unconstitutional. The decision in the Betts case does not overrule or otherwise change the Tibbits case.

In Tibbits, the court held unconstitutional section 4.1 of "AN ACT to create a Commission on Human Relations" (Ill. Rev. Stat. 1975, ch. 127, par. 214.4-1) which required that the Human Relations Commission should cause copies of lists of owners who did not wish to be solicited to sell their residential property to be mailed to those real estate agents who were known or believed by the Commission to be solicited owners of residential property for the sale of such property in the area covered by such lists. The court found the provision to be both vague and indefinite and therefore unconstitutional.

Connie Seals - 4.

This section provided the only authority for the Commission to enforce "AN ACT to prohibit the solicitation or inducement of sale or purchase of real estate on the basis of race, color, religion or national origin or ancestry". (Ill. Rev. Stat. 1975, ch. 38, par. 70-51 et seq.) Therefore, because it was found unconstitutional the Commission has no authority to enforce the Act.

The decision in the Betts case does not change or contradict the decision in the Tibbits case. The Betts case dealt only with subparagraph 1(d)(2) of the Act which dealt with notice by the individual owners.

Very truly yours,

A T T O R N E Y   G E N E R A L