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or exchange, any real estate so owned or leased, or from performing any acts with respect to such real estate when such acts are performed in the regular course of, or as an incident to, the management, ownership or sales of such real estate and the investment therein. *Nor shall the provisions of this Code apply to persons acting as the attorney in fact for the owner of any real estate authorizing the final consummation by performance of any contract for the sale, lease or exchange of such real estate.* And provided further that nothing herein contained shall in any way prohibit any attorney-at-law from performing his duties as such, nor shall this Code prohibit a receiver, trustee in bankruptcy, administrator, executor, or his attorney, from performing his duties, or any person from performing any acts under the order of any court, or acting as a trustee under the terms of any trust, will, agreement or deed of trust." (Emphasis added.)

Clearly resident managers employed by real estate brokers are not exempt.

Therefore, it is the opinion of the Attorney General that your question be answered as follows: An employee of a real estate broker who acts as a resident manager for such real estate broker in managing an apartment building, duplex, apartment complex, or court is required to be licensed as a real estate broker or sales associate when such resident manager resides on the premises and is engaged in the leasing of units in connection with his employment as a resident manager. This opinion is not to be interpreted as meaning that a resident manager employed by the owner of the real estate is required to be a licensed real estate broker or real estate sales associate, for such an individual may, by statute, have a limited power of attorney to lease the owner's property.

AMALIJA J. HODGINS
Assistant Attorney General

No. 76-253

ALIENS—FOREIGN COUNTRIES—LIMITATIONS ON OWNERSHIP OF LAND

An alien or foreign country may not acquire or hold property in the State of Oklahoma except under conditions set out in Article 22, Section 1 of the Oklahoma Constitution and 60 O.S. 1971, §§121-124.

When an alien acquires title to land in the State of Oklahoma, he may dispose of the same at any time prior to the institution of escheat proceedings by the State of Oklahoma. Aliens who acquire title to land under the conditions enumerated in Sections 122 and 123 of Title 60, Oklahoma Statutes, have a five (5) year period in which to alienate such lands before the State of Oklahoma may institute escheat proceedings.

To: Representative Victor Wickersham August 4, 1976
The Attorney General has considered your request for an opinion wherein you ask, in effect, the following question:

1. Is it legal for a foreign country to acquire and hold property in the State of Oklahoma?
2. If the answer to the above question is in the negative and a foreign country should acquire the title to property in the State of Oklahoma, what must they do with it?

Article 22, Section 1, of the Oklahoma Constitution provides as follows:

"No alien or person who is not a citizen of the United States, shall acquire title to or own land in this State, and the Legislature shall enact laws whereby all persons not citizens of the United States, and their heirs, who may hereafter acquire real estate in this State by devise, descent, or otherwise, shall dispose of the same within five years upon condition of escheat or forfeiture to the State: Provided, this shall not apply to Indians born within the United States, nor to aliens or persons not citizens of the United States who may become bona fide residents of this State: And Provided Further, That this section shall not apply to lands now owned by aliens in this State."

The Legislature of the State of Oklahoma has vitalized this provision of the Constitution in Sections 121 through 127 of Title 60, Oklahoma Statutes 1971. Sections 121 through 124 provide as follows:

"§121. *Alien may not hold land — Ownership of personality.* — No alien or any person who is not a citizen of the United States shall acquire title to or own land in the State of Oklahoma, except as hereinafter provided, but he shall have and enjoy in the State of Oklahoma such rights as to personal property as are, or shall be accorded a citizen of the United States under the laws of the nation to which such alien belongs, or by the treaties of such nation with the United States, except as the same may be affected by the provisions of this act or the constitution of this State."

"§122. *Exceptions.* — This article shall not apply to lands now owned in this State by aliens so long as they are held by the present owners, nor to any alien who is or shall take up bona fide residence in this State: and any alien who is or shall become a bona fide resident of the State of Oklahoma shall have the right to acquire and hold lands in this State upon the same terms as citizens of the State of Oklahoma during the continuance of such bona fide residence of such alien in this State: Provided, that if any such resident alien shall cease to be a bona fide inhabitant of this State, such alien shall have five years from the time he ceased to be such bona fide resident in which to alienate such lands."

"§123. *Five year limitation in certain cases.* — All non-resident aliens who may hereinafter acquire real estate in Oklahoma by devise, descent or by purchase, where such purchase is made under any legal proceeding foreclosing liens in favor of such alien, may hold the same for five years from the date

August 4, 1976

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"§124. *Escheat to State, unless conveyance made.* — Any alien who shall hereafter hold lands in the State of Oklahoma in contravention of the provisions of this article, may nevertheless convey the fee simple title thereof at any time before the institution of escheat proceedings as hereafter provided: Provided, However, that if any such conveyance shall be made by such alien either to an alien or a citizen of the United States in trust, and for the purpose and with the intention of evading the provisions of this Article, or the provisions of the Constitution of this State, such conveyance shall be null and void, and any such lands so conveyed shall be forfeited and escheated to the State absolutely."

Further, 25 O.S. 1971, §16 provides:

"§16. *Person includes corporation.* — The word 'person,' except when used by way of contrast, includes not only human beings, but bodies politic or corporate."

As can be seen from an examination of these statutes, aliens have a limited capacity to own or acquire title to land in this State. Since the definition of a "person" (Section 16, supra) includes a body politic, a foreign country is, therefore, a "person who is not a citizen of the United States" and is an alien for the purposes of these statutes. Ownership of land by an alien is subject to escheat to the State when the alien's ownership becomes in contravention of the statutes. Upon the cessation of residency, an alien who owns land in this State has five (5) years in which to alienate such lands. A nonresident alien who acquires title to land by devise, descent, or by purchase pursuant to a lien foreclosure in favor of such alien also has five (5) years to alienate such land. This five (5) year period is for the purpose of allowing an alien who acquires title to land through certain specified judicial proceedings, a grace period in which to make an orderly disposition of the land prior to the institution of escheat proceedings. Any alien ownership of land in this State is subject to escheat proceedings upon the vesting of the estate in the alien, or upon the expiration of the five (5) year grace period, if applicable.

It is, therefore, the opinion of the Attorney General that your questions be answered as follows:

Question number one must be answered in the negative. An alien or foreign country may not acquire or hold property in the State of Oklahoma except under conditions set out in Article 22, Section 1 of the Oklahoma Constitution and 60 O.S. 1971, §§121-124.

Question number two must be answered as follows: When an alien acquires title to land in the State of Oklahoma, he may dispose of the same at any time prior to the institution of escheat proceedings by the State of Oklahoma. Aliens who acquire title to land under the conditions enumerated in Sections 122 and 123 of Title 60, Oklahoma Statutes, have a five (5) year period in which to alienate such lands before the State of Oklahoma may institute escheat proceedings.

JAMES C. PECK
Assistant Attorney General