

Opinion No. 57-52

March 15, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Joel B. Burr, Jr., Assistant Attorney General

TO: Mr. Guy Mayes, Contractors' License Board, Post Office Box 1179, Santa Fe, New Mexico

QUESTIONS

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Must an out-of-state corporation or person first obtain a contractor's license as provided in § 67-16-1, N.M.S.A., 1953 Comp., before engaging in the purchase of condemned houses at various government installations in this State for the purpose of either resale for salvage on the spot, or to be moved by said corporation or person to various points within the State?

CONCLUSION

No.

OPINION

ANALYSIS

The answer to this question will depend upon whether a corporation or person engaged in the activity outlined above is to be considered a contractor, as that term is defined in § 67-16-3, N.M.S.A., 1953 Comp. This section reads, in part, as follows:

"A contractor within the meaning of this act is a person, firm, copartnership, corporation, association, or other organization, or any combination of any thereof, who for either a fixed sum, price, fee, percentage, or other compensation other than wages, undertakes or offers to undertake or purports to have the capacity to undertake to construct, alter, repair, add to or improve any building, excavation, or other structure, project, development or improvement, or any part thereof;"

It is the opinion of this office that the language used in the above definition is not sufficiently broad to cover a corporation or individual engaged in the purchase, sale and transportation of a structure from one place to another. Such activity can in no case be considered "construction, alteration, repair, addition to, or improvement" to any building, excavation or other structure. The houses sold and moved are not repaired or remodeled by the carrier. When the houses reach their final destination they are unloaded and placed on blocks. In no case does the carrier construct a permanent

foundation for the structure, nor does he participate in anchoring any structure to a permanent foundation already constructed; but rather, his contractual obligation is completed once the house is removed from his vehicle.

The statute of definition, cited earlier in this opinion, is specific, limiting regulation and licensing by the Contractors' License Board to those contractors who undertake to "construct, alter, repair, add to or improve any building, excavation or other structure, project, development or improvement for any part thereof." No mention is made of the moving of a structure from one place to another, nor do we believe the Legislature intended that this act include common or contract motor carriers for hire, since the latter were being effectively regulated at the time the act in question was passed.

It, therefore, follows that the question as posed must be answered in the negative.