

Oregon Real Estate News-Journal

Official Publication of the Oregon Real Estate Agency

Volume 62, Number 4, December 2008



Commissioner Gene Bentley

Agency Gearing Up for Session

Gene Bentley, Real Estate Commissioner

The 75th Legislative Assembly begins January 12, 2009. We anticipate a busy session as our legislators grapple with significant economic issues and difficult decisions on Agency operating budgets for the next biennium.

The Agency is proposing two bills this session based on legislative concepts resulting from input from the Real Estate Board and rule review work groups. Originally three concepts were prepared, but during bill drafting a decision was made to combine the two concepts that would amend escrow statutes. In addition to the Agency's proposals, the real estate industry has indicated interest in submitting proposed legislation to "raise the bar" for principal real estate brokers, brokers and sole practitioners. Also, we understand that the Oregon State Bar is planning to address an issue regarding exemptions for companies and limited liability companies in ORS 696.030.

The Agency bills have been drafted by

Legislative Counsel and at this writing are in the "queue" for pre-session filing by the Governor. At this point, bill numbers have not been assigned, so in the following synopsis, we will use "Bill No. 1" and "Bill No. 2."

Bill No. 1: Brokers and Property Managers

Provides housekeeping and minor program changes to clarify statutes and streamline requirements for real estate brokers; deletes the requirement for the agency to publish the names of refused applicants or addresses of disciplined licensees; provides principal real estate brokers with the ability to establish an entity to receive commission payments; authorizes the agency to issue a limited license to an applicant; and provides the agency with authority to impose a civil penalty against a property manager or a principal broker engaged in the management of rental real estate for failure to

Please see Gearing Up for Session on Page 2



Oregon Real Estate Agency
1177 Center Street NE
Salem, Oregon 97301
(503) 378-4170
(503) 378-3256 Fax
www.rea.state.or.us

IN THIS ISSUE

Agency Announces Staff Changes	2	Continuing Education	10
2009 Real Estate Board.....	2	Administrative Actions.....	11
New Administrative Rules.....	3	What is a Foreclosure Specialist?	11
Raffle-Style Contests.....	4	Happy Birthday Oregon and Real Estate Agency.....	12
Property Management by Brokers.....	5	The Oregon Country: "A New Eden" ..	12
Advanced Real Estate Practices.....	6	Herbert Hoover and Real Estate in Oregon.....	14
Short Sales	7	Well Contamination in Lebanon.....	15
Closed Clients' Trust Accounts.....	7	Smoke Alarm Training Available	15
The Oregon Real Estate Agency - About Us	8		

Gearing Up for Session

Continued from Page 1

produce records.

Bill No. 2: Escrow

Provides housekeeping and minor program changes to the escrow statutes; requires the Agency to establish a system of licensing for escrow agents by rule; deletes procedural matters from statute; requires

application for changes in ownership of escrow agency and a criminal background check; provides for suspension or revocation of a license for failing to maintain a required surety bond; provides for a sanction or reprimand; and provides for sanction for licensees who commit an act of fraud or dishonesty outside the scope of conduct under the license. ■

Agency Announces Staff Changes

Lindsey Nunes was hired as Licensing Compliance Specialist. Ms. Nunes comes to the Agency from the Oregon Family Insurance Assistance Program, where she worked as an Eligibility Specialist. She has also worked as a Licensing Specialist for the Building Codes Division. Prior to working for the state, Ms. Nunes spent five years in the title and escrow industry.

Kathy Forstrom will be retiring as of December 31, 2008 after eight years of state service. Ms. Forstrom has been Public Service Representative in the Land Development Division of the Agency for two

and one-half years. She and her husband plan to travel and spend more time with family.

Joyce Pierce is leaving the Agency to accept a position with the Division of Finance and Corporate Securities of the Department of Consumer and Business Services. Ms. Pierce has been an Investigator/Auditor with the Agency for four years. Her last day will also be December 31, 2008

The Agency welcomes Ms. Nunes, and wishes Ms. Forstrom and Ms. Pierce well. ■

2009 Real Estate Board

Art Kegler was elected chairperson of the Oregon Real Estate Board during its December 1, 2008 meeting. Mr. Kegler is a principal broker with American West Properties in Boardman. He was originally appointed to the Board in 2003.

Lee Dunn was elected vice-chairperson. Mr. Dunn is a principal broker with Prudential Northwest Properties in Portland. He has been a member of the Board since October 2007.

The Real Estate Agency wishes to thank

Mike Graeper and Troy Costales for their past service on the Board as chairperson and vice-chairperson respectively.

The Oregon Real Estate Board meets six times a year. The tentative schedule for 2009 is:

February 2 – Salem

April 6 – Salem

June 1 – Baker City

August 3 – Salem

October 5 – Hood River/The Dalles

December 7 – Portland ■

Editor's Note: See the Agency's website at www.rea.state.or.us for available employment opportunities.

Editor's Note: See the Agency's website at www.rea.state.or.us for additional information.

New Administrative Rules Effective January 1, 2009

Laurie Skillman, Land Development Manager/Rules Coordinator

The Agency has completed a comprehensive review of its administrative rules that began in the fall of 2007. Three working groups, with industry and agency members, met and worked on all rules for real estate brokers, property managers, escrows and escrow agents. After consensus was reached by the working groups, draft rules were sent to large advisory groups for comment. Comments were reviewed by work groups, final drafts were submitted to the Board and a public comment period was provided. The final rules will be filed by December 15, 2008. All rules become effective on January 1, 2009. Licensees are responsible for knowing current rules.

Almost all administrative rules for licensing and for the regulation of real estate brokers, property managers, escrows and escrow agents have been amended and many have been placed in new divisions.

On January 1st, the official rules will be posted on the Agency's website, *www.rea.state.or.us*. Click on "Statutes and Rules" and scroll down to "Administrative Rules."

The agency created new rule divisions and made amendments to existing divisions in OAR chapter 863, Divisions 14, 15, 24, 25, 27 and 50. The agency placed licensing rules in new divisions that are separate from regulations for licensees so that rules are easier to find. The purposes of amendments to existing rules include updating language for readability, aligning rules with statutes, and making substantive changes.

Division 14 is a new licensing division

for real estate brokers, principal real estate brokers and sole practitioners. Licensing rules were updated and moved from Division 15 to this new division. There are no major changes to these rules.

Division 15 contains regulations for real estate brokers, principal real estate brokers and sole practitioners. These rules have

been amended and licensed real estate brokers, principal real estate brokers and sole practitioners should carefully review these rules.

Division 24 is a new licensing division for property

managers. Licensing rules were updated and moved from Division 15 to this division.

Division 25 contains regulations for real estate property managers. These rules have been amended and apply to licensees who engage in the management of rental real estate. Therefore, licensed real estate property managers, real estate brokers, principal real estate brokers, and sole practitioners who engage in the management of rental real estate should carefully review these rules. A significant number of changes have been made to clients' trust accounts, reconciliations and recordkeeping.

Division 27 is a new division and contains rules on investigations and progressive discipline for real estate brokers, principal brokers, sole practitioners and property managers. These rules were moved from Division 15 to their own division and were not changed.

Division 50 updates regulations for escrow and escrow agents, who should carefully review these rules. ■

"On January 1st, the official rules will be posted on the Agency's website, www.rea.state.or.us." Click on "Statutes and Rules" and scroll down to "Administrative Rules."

Raffle-Style Contests

Editor's Note: This article was provided by the Oregon Department of Justice.

The Financial Fraud/Consumer Protection section of the Oregon Department of Justice periodically receives inquiries from law enforcement officials and members of the public regarding the legality of raffle-style contests requiring the submission of a written entry by participants. Typically, a person or entity offers an item of significant value (e.g., a house) to be awarded to a winning contestant. Contestants are charged a fee to enter the contest. The rules of the contest require a contestant to submit a written essay on a particular subject and the winning contestant is selected on the basis of the "best" submission.

This article is not intended as a legal opinion, but, rather, it is intended to identify some legal and practical issues associated with the operation of such contests, which create legal problems. As a general rule we would warn promoters that such contests, if not properly structured, would violate Oregon law. Moreover, we would advise potential participants to be wary of essay contests that offer large prizes for small entry fees.

In general, it is illegal to operate lotteries in the State of Oregon. The operation of a prohibited lottery constitutes illegal gambling and is punishable as a criminal act. See ORS 167.117 et seq. The most notable exceptions to this prohibition are lotteries conducted by the Oregon State Lottery and bingo and raffles conducted by a non-profit tax-exempt organization. See Oregon constitution, Article XV, Section 4.

Lotteries involve chance, consideration and prize. Whether these elements are present is determined on a case-by-case basis. In the above-described contest, the elements of a prize and consideration are present. Therefore, the contest is an illegal lottery if the element of chance also is present.

The scenario described above raises the question of whether the essay contest is one of skill or chance. If the contest is predominately skill, it is not a lottery. Conversely, if

it is predominately chance, it will be viewed as illegal. There are no Oregon cases directly on point; however, there are two cases that discuss when a game is skill or chance. In *Johnson v. McDonald*, 132 Or 622 (1933), the court held that a type of contest based on a checkers game was predominately skill, while in *State v. Coats*, 158 Or 122 (1938), the court ruled that operation of a pinball machine was predominately chance.

In the case of an essay contest, we will look closely at the judging criteria to determine whether the outcome rests predominantly on skill or chance. If the proposed criteria result in the winner being chosen simply through the luck of the draw, the contest will be considered an illegal lottery. Similarly, if there are no objective criteria for judging the winner, we will presume the contest is based primarily on chance and thus be an illegal lottery. The most important factor is that the winner is determined not through chance but on skill.

Another factor in determining whether the contest is based predominantly on skill or chance is the qualifications of the judge or judges. If a judge is independent with some skill in judging an essay contest, and there is an articulated objective criterion for judging the contest, the promoter has a much better chance of showing the contest is based on skill rather than chance.

Another problem with essay contests involves the entry fees. All moneys received should be placed in a separate account until the winner has been declared. Some contests tell participants that the awarding of the prize is conditioned on participants returning an adequate number of applications. In such cases, the money is not the promoter's, but should be held in trust for the participants until the winner is awarded the prize. If the promoters use the money before awarding the prize, they may have committed a crime or an unlawful trade practice.

Even if a contest is not viewed as an illegal lottery, there are other problems. The Oregon Unlawful Trade Practices Act (UTPA) requires that contests be promoted

honestly and free from deception. See ORS 646.608(1)(p). To comply with these provisions, a contest promoter must tell participants the minimum and/or maximum number of entrants. The contest must be conducted fairly and objectively. If a friend or relative of the promoter won, it would appear the selection process was “rigged” or, at least, arbitrary and therefore, an illegal lottery.

Some examples of problems found in California illustrate the types of violations we would anticipate. In one, the promoter created a nonprofit to “own” the property and, therefore, the nonprofit was supposedly benefiting from the sale. It turned out the beneficiary of the nonprofit was a relative of the seller. In other words, the participants were led to believe their participation benefited a nonprofit when it was merely benefiting the seller.

The value placed on the property also is an issue. For example, one property in California was listed with a value of \$800,000. However, this was \$125,000 more than the

price at which the seller had unsuccessfully marketed the property. In addition, a “winner” could have serious tax consequences depending upon how the property is valued.

Moreover, Oregon’s contest, sweepstakes and prize notification rule covers essay contests played through the mail or telephonically. In this rule, the promoter must make certain disclosures when the contest is offered including the name of the judges, the method used in judging and the date the final winner will be determined. The rule does not legalize what would be illegal lotteries.

If a person is able to design a contest which avoids all the problems stated above, the proposal should be reviewed with the Real Estate Agency if real estate is offered as a prize. The person may need a real estate license if the contest is promoted on behalf of some third party.

Because of the many, serious legal issues raised by such contests, we have encouraged individuals to discuss the contest with legal counsel prior to offering the contest in Oregon. ■

Property Management by Brokers, Sole Practitioner Brokers, and Principal Brokers

Licensed real estate brokers, sole practitioner brokers and principal brokers are allowed to engage in all aspects of professional real estate activity, including property management [ORS 696.010(15)(h)].

Brokers associated with principal brokers can only conduct property management activity under the direct supervision of their principal broker. As with all other professional real estate activity, brokers can only do property management activity for the company with which they are licensed under the supervision of their principal brokers.

Sole practitioner brokers and principal brokers are also allowed to conduct the management of rental real estate.

Any broker interested in offering property management services should review Oregon Administrative Rules Chapter 863 Division 25. These rules state the specific requirements for property management

activity, including clients’ trust accounts, property management agreements and recordkeeping.

The Agency’s website has required forms and helpful tools available to assist in managing rental real estate, such as:

- Inventory of and Authorization to Examine Clients’ Trust Accounts
- Notice of Clients’ Trust Account
- Trust Account Reconciliation
- Compliance Review Checklist - Property Management

Although not regulated by the Agency, another important resource for brokers interested in managing residential rental properties is the Oregon Landlord Tenant Law. A link can be found at the Agency’s website at www.rea.state.or.us.

If you have any additional questions, contact the Education Division at (503) 378-4170, selection 3. ■

Advanced Real Estate Practices - Do You Need It?

Real Estate Agency Staff

Reciprocal Licensees:

Please contact the Agency at (503) 378-4170 if you will be renewing your Oregon license for the first time.

If you are a new Oregon broker, you must take the 30-hour Advanced Real Estate Practices (AP) course before your first active license renewal.

You must complete the Real Estate Agency-approved AP course if you:

- received your very first Oregon real estate broker license on or after July 1, 2002; or
- let a previous Oregon license expire (or otherwise lapse) and obtained a new broker license on or after July 1, 2002.

Principal brokers, sole practitioner brokers and property managers are not required to take the AP course.

The AP course is a specific 30-hour course that must be taken from an Agency-approved course provider. A list of approved providers for the AP course can be found in the document called "Approved Pre-License and Post-License Real Estate Education," which can be obtained by visiting the Agency's website at www.rea.state.or.us.

Completion of the course is required by OAR 863-015-0055(4).

If your license is inactive at the time of renewal, you do not need to take the AP course until you reactivate your license.

Although the AP course requirement is separate from continuing education requirements, a principal broker may let affiliated brokers use the AP course to meet the continuing education requirements for license renewal.

When affiliated brokers complete the AP course, the course certificate must be given to their principal broker. The principal broker signs the Renewal Continuing Education Certification Form indicating that the course has been completed. The principal broker then keeps the certificate and the certification form for six years as required by ORS 696.280(2) and (3), and OAR 863-015-0055(2)(c).

Find out if you need it:

Active broker licensees, you need to take the AP course to renew your license if:

- the license is being renewed for the very first time.
- you had an Oregon real estate license, but let it expire or otherwise lapse. You have now re-licensed as a broker by meeting the current licensing requirements. Your first license renewal since re-licensing is now coming up.

Inactive broker licensees, you need to take the AP course to activate your license if:

- you obtained your very first broker license after June 30, 2002, but it has been inactive the entire time. You have renewed your inactive license at least once, and now you wish to activate it.
- you had an Oregon real estate license, but let it expire or otherwise lapse. You became re-licensed as a broker after June 30, 2002 by meeting the current licensing requirements, but have had an inactive license since then. You have renewed your inactive license at least once, and now wish to activate it.

You do *not* need the AP course if:

- you are an affiliated broker who was licensed prior to July 1, 2002, and you have maintained your license, not letting it expire or otherwise lapse.
- you are a principal broker
- you are a sole practitioner broker
- you are a property manager
- your license is currently inactive (but you may need it to activate your license. See "Inactive Broker Licensees" above.) ■

Short Sales

Selina Barnes and Ralph Harding, Oregon Real Estate Agency

We frequently receive questions concerning the issue of “short sales” and sales of properties that are in foreclosure. We are not able to forecast all the issues that will arise from these transactions resulting in complaints the agency will certainly receive.

In general, these types of sales are characterized by a sales price that is not high enough to clear all debt, liens, and costs of the sale; and which require approval by a third party or other parties not in title to the property. Short sales are only one type of third-party contingent transaction.

In many instances, approval by a lender is required to complete the transaction. Naturally, the lender wants to minimize their loss by making sure they receive the best price possible, and so may delay giving their approval until the very last minute in order to consider additional offers. If the property is in foreclosure, there is also the looming date of the Trustee’s Sale where title to the property will revert to the lender.

If the third party is a bankruptcy trustee, the executor of an estate, or the like, then a court hearing and a decision by the judge may be required before the contingency can be removed. The requirement for a hearing can add significant time to the process.

A few of the possible risks to either the buyer and/or seller that are inherent in short sales are:

- The deal is not final until approved in writing by the third party even though the buyer and seller have signed reaching

mutual acceptance.

- The third party approval may not be granted until the very last minute.
- The third party may require that the property remain on the market, resulting in additional offers.
- The third party may require changes to the transaction such as price, terms, conditions and closing date.
- The third party may refuse to give consent thereby causing the sale to fail.
- If the buyer pays for inspections and other forms of due diligence prior to third party written consent, the buyer may not recover these funds if the sale fails.
- Multiple offers may result in multiple escrows with earnest money deposits. Therefore, multiple termination agreements are required to return earnest money deposits for unsuccessful transactions.

These transactions can be complicated and unpredictable, resulting in a high risk for failure. Therefore, please proceed with awareness and caution. Obtaining the advice of your Principal Broker or an attorney skilled in real estate and contract law is highly recommended. Licensees need to ensure their clients thoroughly understand the inherent risks involved in third party contingent transactions. Certainly, licensees should advise their clients to seek competent professional advice.

For links to related resources, please visit our website at www.rea.state.or.us .

“These transactions can be complicated and unpredictable, resulting in a high risk for failure. Therefore, please proceed with awareness and caution.”

Closed Clients’ Trust Accounts

Principal brokers, sole practitioner brokers and property managers should notify the Real Estate Agency when a clients’ trust account is closed. This assists the Agency in keeping its list of accounts up-to-date, and prevents the possibility of licensees receiving mail-in audits for accounts no longer open.

Licensees can notify the Agency by sending a letter with information including licensee or registered business name, license number, bank name and address, account number, and account name.

For more information, please contact the Agency at (503) 378-4170, selection 3.

The Oregon Real Estate Agency - About Us

Editor's Note: Starting with the first issue of 2009, the Oregon Real Estate Agency will publish reports from each of its divisions to better inform licensees of what the Agency does. This article introduces the Agency and its programs in preparation for those future articles.

Mission Statement

The mission of the Oregon Real Estate Agency is to provide quality protection for Oregon consumers of real estate, escrow, and land development services, balanced with a professional environment conducive to a healthy real estate market

History

Oregon passed the first effective real estate license law in the United States on February 14, 1919. The law required brokers to pay a \$5 licensing fee annually, furnish a \$1,000 bond, and submit recommendations signed by ten freeholders certifying that the applicant was "honest, truthful, and of good character." The Insurance Department was initially responsible for the licensing of real estate agents. The Real Estate Department was later organized within the Insurance Department. In 1939, the Real Estate Department was given independent status by the Legislature. In 1963, it became the Real Estate Division within the Department of Commerce. In 1987, the Department of Commerce was dissolved, and the Real Estate Division was renamed the Oregon Real Estate Agency, and remains so today.

Organization

The agency is administered by the Real Estate Commissioner who is appointed by the Governor and confirmed by the Senate. The agency's responsibilities include:

- Examining and educating brokers, principal brokers and property managers
- Licensing and regulating:

- Real estate principal brokers and brokers (ORS chapter 696)
- Real estate property managers (ORS chapter 696)
- Escrow and escrow agents (ORS chapter 696)
- Real Estate Marketing Organizations (ORS chapter 696)
- Subdivision (ORS chapter 92)
- Manufactured dwelling subdivisions (ORS chapter 92)
- Condominiums (ORS chapter 100)
- Registering timeshares and campgrounds/issuing public reports (ORS chapter 94)

Each biennium the agency conducts examinations, issues licenses and processes renewals for more than 24,000 licensees and registrants and monitors regulated activities in over 4,500 escrow organizations and real estate offices. Land developers with offerings to Oregon citizens have hundreds of disclosure filings with the agency. The agency provides educational material and course oversight for real estate professionals. The agency also conducts investigations and hearings when complaints are filed against licensees, registrants and real property developers.

Programs

The agency oversees the education, examination, licensure, and regulation of Oregon's real estate professionals. Its major programs and activities are:

Office of the Commissioner

The Oregon Real Estate Commissioner provides leadership and policy direction to the agency and works collaboratively with the Real Estate Board and the public. The commissioner's office is responsible for legislation and rules, and coordinating contested case hearings.

Real Estate Board

The Oregon Real Estate Board is an

advisory board consisting of seven industry members and two public members. Board members are appointed by the Governor for four-year terms. They serve on committees, such as rule making and education; provide advice to the Real Estate Commissioner and the Governor's office regarding real estate industry matters and agency policy; and provide advice or recommendations to the agency on budget development and technology advancement. The board also approves experience waiver requests by real estate licensees and oversees the license examination process.

The board meets bi-monthly and, when possible, the meetings are hosted at local real estate associations around Oregon to allow public access in areas away from the state capital. This also fosters transparent government to the industry and the consumers that we serve.

Education Division

The division is responsible for

- Developing real estate educational guidelines
- Approving pre-license courses and instructors
- Developing and maintaining exams and test items
- Mail-in audits of broker and property manager files and clients' trust accounts
- Compliance reviews
- Maintaining the agency's website
- Responding to public inquiries
- Researching alternate ways to provide educational materials to real estate licensees

The division produces educational publications, including the quarterly Oregon Real Estate News-Journal, the monthly Oregon Real Estate Commissioner's Bulletin, and the Oregon Real Estate Manual.

Licensing Division

This division is responsible for:

- Licensing real estate brokers, property managers and escrow agencies
- Processing registered business names and branch offices registrations
- Registering membership campground

contract brokers

- Processing real estate examination applications, including initial fingerprint card screening
- Processing fingerprint cards through the Law Enforcement Data System and Nationwide Criminal Records Checks for license applicant criminal background checks
- Completing license applicant criminal background check investigations
- Maintaining all licensing history records
- Initial processing of all fees

The division also provides reception and information services to the public, mail processing, and completes special projects.

Administrative Services Division

The division manages administrative services for the agency, including:

- Budget/allotment preparation
- Fiscal services, including inventory control, remittance processing of revenue, accounts payable and receivable, payroll, and travel coordination
- Human Resources
- Purchasing and contracting
- Administrative support to the board and the commissioner
- Overseeing the Information Technology Division, which provides word, data processing, local area network (LAN) administration, telecommunications services and the license migration for the agency.

Land Development Division

This division is responsible for administering the land development programs, which include:

- Condominiums, timeshares, membership campgrounds and manufactured dwelling subdivision registrations
- Real Estate Marketing Organization licensing and regulation
- On-site inspections of out-of-state land development
- Public report issuance

The other key responsibility in this division is in rule and legislation development

Please see About Us on Page 10

Continuing Education for Real Estate Licensees

Thirty hours of continuing education are required to renew a real estate license in Oregon. Principal brokers approve education for themselves and their affiliated licensees. Sole practitioner brokers and property managers approve their own education.

The Oregon Real Estate Agency does not approve continuing education. The Agency does not maintain a list of continuing education course providers.

Licensees who approve education decide whether a course falls within required or elective topics. OAR 863-015-0055 requires that at least 15 hours of continuing education taken by a licensee must be taken within the required topics. The rest of the hours can be in either required or elective topics.

Continuing education must be “real estate-oriented.” It must be a minimum of one hour in length.

Continuing education taken in another state may be approved if the content applies to Oregon. Online or distance education classes may also be approved.

A principal broker may let affiliated brokers use the Advanced Real Estate Practices course for continuing education. (See “Ad-

vanced Real Estate Practices: Do You Need It?” on page 6.)

Certificates of attendance must be kept by the approving licensee for six years.

Required Topics:

- Trust Accounts
- Misrepresentation
- Anti-Trust
- Rule and Law Update
- Property Management
- Commercial Brokerage and Leasing
- Real Estate Taxation
- Agency
- Fair Housing
- Contracts
- Evaluation of Property
- Brokerage Management
- Land
- Business Ethics

Visit the Agency’s website at www.rea.state.or.us, or call the Education Division at (503) 378-4170, selection 3, for more information. ■

About Us

Continued from Page 9

for the agency. In addition to the land development responsibilities, the division manager coordinates rule development and filing and proposed statutory changes.

Regulation Division

The division is responsible for

- Investigating complaints against real estate brokers, property managers, escrow agencies, subdivisions, condominiums, timeshares, membership campground developments, and real estate marketing organizations; and all unlicensed activity
- Conducting settlement conferences (dispute resolution) to resolve matters without a contested case hearing
- Assisting the agency’s Assistant Attorney General in preparing contested cases for hearing and, if necessary, assisting other criminal justice agencies in investigations, court testimony, and case preparation
- Processing and maintaining escrow licensing and security/bonding files ■

Administrative Actions

October 1, 2008 thru October 31, 2008

REPRIMANDS

Grant, Allen R. (Fairview) Broker
#990500143

Stipulated order dated October 1, 2008. Grant is a real estate broker as well as the owner of a development company and a construction company. Grant varied the floor plan to be built for complainants. Violation: ORS 696.301(1)

CIVIL PENALTIES

Expired - OAR 863-015-0050(2) - 31-60 days - \$100

Grigsby, Susan I. (Springfield)
#981100061 - 46 days - 10/1/08 Stipulated order

Expired — OAR 863-015-0050(2) - 61-90 days - \$600

Segrin, Dane C. (Portland) #970300170 - 73 days - 10/29/08 Stipulated order

Expired - OAR 863-015-0050(2) - 181-210 days - \$2,600

Douvrin, Nicholas II (Portland)
#200605040 - 193 days - 10/13/08 Stipulated order

Editor's Note: The complete order for each administrative action can be found as a supplement to the electronic version of the OREN-J on the Agency's website. Visit www.rea.state.or.us, and select "News-Journal" from the menu.

The Agency is required by Oregon Real Estate License Law to publish disciplinary actions. A list of those actions, a brief description of the situation, and the grounds for the Commissioner's action follows. Please note, there are individuals with real estate licenses that may have similar or the same names as those listed herein, or even work in the same market area. If you are in doubt if an individual listed here is someone you know or with whom you are dealing, please contact the Agency for verification.

Finally, please note that stipulated settlements do not necessarily reflect all the factual violations initially alleged by the Agency, and the sanction(s) may have been adjusted as part of the negotiation process. Such settlements may not, therefore, directly compare in severity/sanction with other cases.

What is a Foreclosure Consultant?

In January 2008, the Oregon Legislature passed the Mortgage Rescue Fraud Protection Act. This law says a "foreclosure consultant" is a person that offers for compensation from or on behalf of a homeowner to do one or more of the following:

- Prevent, postpone or stop a foreclosure sale.
- Obtain a forbearance from a beneficiary or mortgagee.
- Assist the homeowner in exercising a right of redemption.
- Obtain an extension of the period within which the homeowner may reinstate the homeowner's obligation.
- Obtain the waiver of an acceleration clause that is:
 - Contained in a promissory note or contract; and

- Secured by or contained in a deed of trust for, or mortgage on, a residence in foreclosure or in default.
- Assist the homeowner in obtaining a loan or advance of funds.
- Avoid or ameliorate an impairment of the homeowner's credit resulting from a recorded notice of foreclosure or default.

Foreclosure consultants have certain disclosure and contract requirements, as well as limitation in their activities. A full text of the law can be found at <http://www.leg.state.or.us/08ss1/measpdf/hb3600.dir/hb3630.en.pdf>.

If you choose to engage in foreclosure consultant activities, the Agency strongly suggests that you seek the advice of an attorney.

Well Contamination in Lebanon

Editor's Note: This article was submitted by the Oregon Department of Environmental Quality.

Do you represent an owner or buyer of property in downtown Lebanon? Many wells near downtown Lebanon, Oregon are contaminated with the dry cleaning solvent tetrachloroethylene (PCE or Perc) and trichloroethylene (TCE).

Well water in this area may contain these solvents at concentrations that could be harmful to people who use the water for drinking, cooking and showering. The Oregon Department of Environmental Quality (DEQ) is studying the problem and working to inform home owners and prospective purchasers of homes with wells

in this area of the problem.

Well tests that are required during property transactions do not pick up these chemicals. A separate lab test is needed to test for PCE and TCE. DEQ can test wells within its study area at no cost to the owner. Lebanon city water is available to most properties in this area and DEQ recommends using city water to avoid exposure to groundwater contamination.

A map of Lebanon groundwater contamination area and more information about water testing are available at www.deq.state.or.us/wdr/?p=21735. The DEQ contact is Don Hanson. Mr. Hanson can be reached at (541) 687-7349 or by email at hanson.don@deq.state.or.us. ■

Oregon's DEQ can test wells for PCE and TCE within its study area in Lebanon at no cost to the owner. Contact the DEQ for more information at (541) 687-7349.

Smoke Alarm Training Available

The Office of State Fire Marshal has developed an online course to teach real estate licensees about smoke alarm laws. Oregon law requires that all homes at the time of sale have working smoke alarms in place that meet specific standards. Real estate licensees can take the free course through ProSchools and learn what those standards are.

For information on how to take the class, please visit http://www.oregon.gov/OSP/SFM/Smoke_Alarm_Education.shtml.

Editor's Note: As with all training, brokers can receive continuing education credit with the approval of their principal broker. Principal brokers and sole practitioner brokers can certify their own continuing education. ■

OREGON REAL ESTATE NEWS-JOURNAL, SALEM, OREGON 97301
Periodicals Postage Paid at Salem, Oregon

OREGON REAL ESTATE
NEWS-JOURNAL
(USPS 905-220)

Official Publication of the
Oregon Real Estate Agency
1177 Center St. N.E.
Salem, Oregon 97301-2505
Telephone: (503) 378-4170
Facsimile:
(503) 378-3256 Licensing
(503) 373-7153 Regulation
(503) 378-2491 Administration
Web Page:
<http://www.rea.state.or.us>

OREGON REAL ESTATE
AGENCY
Theodore R. Kulongoski,
Governor
Gene Bentley, Commissioner

REAL ESTATE BOARD
Arthur Kegler, Chairperson,
Boardman
Warren L. (Lee) Dunn, Vice
Chairperson, Portland
Troy Costales, Keizer
Michael Graeper, Portland
Byron Hendricks, Salem
Christopher Hermanski,
Tualatin
Robert LeFeber, Lake Oswego
Kim Medford, Bend
Marianne Wood, Eugene

The Oregon Real Estate News-Journal is published four times a year by the Oregon Real Estate Agency as an educational service to all real estate licensees in the state under the provisions of Section 696.445 of the Oregon Revised Statutes. \$4.00/biennium subscription fee included in real estate license fee. All other subscriptions \$2.00 per year. POSTMASTER: Send address changes to *Oregon Real Estate News-Journal*, 1177 Center St. N.E., Salem, OR 97301-2505.

Mesheal Heyman, Editor
Vol. 62, No. 4
December 2008
Periodicals postage paid at
Salem, Oregon