

Oregon Real Estate News-Journal

Official Publication of the Oregon Real Estate Agency

Volume 70, Number 3, June 2016



Commissioner
Gene Bentley

Website Redesigned with You in Mind

Gene Bentley, Real Estate Commissioner

After over a year of work, the Oregon Real Estate Agency is happy to announce that our brand new website is scheduled to go live on June 28.

The website address remains the same: www.oregon.gov/rea. However, if you have bookmarked specific pages in

the old website, you will need to update those bookmarks.

The Agency's website redesign team started the makeover process by first looking at the traffic data for our current website. By looking at that data with the statistics on common questions received from incoming phone calls and emails, the team came up with a list of top reasons why people might want to come to our website.

From there, the team asked licensees to help find the best way to organize the information using an activity called card sorting.

The Agency's team gave the licensees a list of tasks they might do on the website and asked them to put those tasks into categories.

Next came the writing and rewriting of the website content. Although we have a lot of material on the existing website, our subject matter experts reviewed it all to make sure it would be clear, correct, and easy to read.

Finally, the team took all it learned from the card sorting activity, as well as accessibility resources and user experience best practices, to design the website within the State of

Oregon's new template. And to make sure the new website worked the way it should, the team conducted user testing with licensees, real estate students, and members of the public.

To see what the website will look like on June 28, [take the video tour](#) available on our YouTube channel. ■

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www.oregon.gov/rea."



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Guest Opinions

Professionalism in Real Estate

Debra Gisriel

GRI, CRS, CIPS, SFR, RSPS; Managing Principal Broker, eXp Realty, LLC; 2016 President, Oregon Association of REALTORS

Is it time to make a concerted effort to increase and promote professionalism in the real estate brokerage industry? Many think so! We are only as good as the worst of us! According to the National Association of REALTORS's [The D.A.N.G.E.R. Report](#), the biggest danger facing our industry is ourselves. That's a pretty dire projection. Inexperience and unethical behavior is permeating our industry. It seems to me that we have for far too long catered to the least of us at the expense of the best of us, and it is time to implement the necessary changes to correct that bleak course.

So many of us treat the public and each other with absolute professionalism and approach our real estate businesses ethically and with integrity. What does that look like and what do we as an industry need to do to make that the norm rather than the exception?

A real estate professional projects several basic traits:

1. The Golden Rule is non-negotiable
2. Clients first, above any self-interests
3. Professional appearance and demeanor
4. Responsive and communicates clearly and timely
5. Adheres to the [NAR's Code of Ethics](#) and Oregon Real Estate Agency's laws and rules.

What are some solutions?

1. Re-evaluate the entry requirements and continuing education requirements to get and maintain a real estate license in Oregon.

2. Increase the education and experience requirements to obtain a Principal Broker license.
3. Require additional course topics for Principal Broker renewal that focuses on supervision and transaction oversight.

Raising the bar of Professionalism must begin at the managing Principal Broker level. One of the underlying and perhaps most significant contributions to our lack of

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professionalism is failure of and complete lack of Principal Broker supervision and training of new brokers. I know and work with many hard-working, ethical and professional Principal Brokers around the state, and

I would say without hesitation that is the majority of all Principal Brokers. The frustration is dealing with untrained and unsupervised brokers and the inability to resolve transaction and relationship issues because their principal brokers are unresponsive, uncooperative and unprofessional.

I know that increasing requirements and cost may not be a popular position, but we must do something. Now is the time, or we have the potential to self-destruct and become irrelevant in the real estate transaction.

Editor's Note: The views expressed in "Guest Opinions" are not necessarily those of the Oregon Real Estate News-Journal, the Oregon Real Estate Agency, or Agency staff.

Unlicensed Assistant Guidelines

Some assistants are not real estate licensees (broker or principal broker). Because they are not licensees, they may not engage in professional real estate activity. An unlicensed assistant may not ask for or receive a share of an employing licensee's commissions. An employing licensee may not make an unlicensed assistant's pay conditional on the closing of a transaction by the licensee.

An unlicensed assistant may engage in the following activities, which are not considered professional real estate activity:

- Answer the phone, take messages, and forward calls.
- Collect demographic information.
- Provide information on a property (limited to the information contained on prior advertisements).
- Follow up on the completion of contingency requirements in transactions, including arranging for repairs.
- Check on the progress of required financing in transactions.
- Check with the escrow company to track the status of a file.
- Schedule or confirm appointments for:
 - Licensees to list or show a property.
 - A buyer with a loan officer.
 - A property inspector to inspect a home.
- An appraiser to appraise a property.
- Prepare advertising copy for review, approval, and use by the licensee (including review and approval by the licensee's principal broker as appro-

priate).

- Install signs and lock boxes on listed properties.
- Assist a licensee at an open house (can hand out flyers, but cannot discuss the property).
- Type and mail documents involved in transactions.

An unlicensed assistant MAY NOT engage in the following activities, which are considered to be professional real estate activity:

- Show real estate to prospective buyers.
- Hold open houses.
- Perform a walk-through inspection.
- Answer questions relating to a transactional document.
- Give instructions to inspectors, appraisers, or maintenance/repair people.
- Engage in negotiations with clients in a transaction.
- Engage in real estate marketing or cold calling people to buy or sell real estate.

The above lists outlining permitted and prohibited activities for unlicensed assistants is not complete. The employing licensee is responsible for keeping the unlicensed assistant from engaging in professional real estate activity. Both the employing licensee and the unlicensed assistant could face administrative sanctions if the unlicensed assistant engages in professional real estate activity. ■

Board Meeting in Pendleton

Monday, August 1, 2016, 10:00 a.m.

[Hamley Steakhouse](#), 8 S.E. Court Ave.

EARN 3 HOURS OF CONTINUING EDUCATION if you pre-register with the Oregon Association of Realtors (OAR). *The Board meeting is open to the public, but you must pre-register with [OAR](#) to receive continuing education hours.*

HUD Warns Landlords, Property Managers Against Criminal History-Based Discrimination

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The U.S. Department of Housing and Urban Development, Office of General Counsel, has issued new guidance warning landlords, property managers and other housing providers against making arbitrary and overbroad criminal history-based housing decisions that may result in Fair Housing Act liability.

In the [recent guidance document](#) HUD acknowledges that the existence of a criminal record is not a protected characteristic under the Fair Housing Act; which prohibits discrimination in the sale, rental, or financing of dwellings on the basis of race, color, religion, sex, disability, familial status or national origin. However, HUD says, "Across

the United States, African Americans and Hispanics are arrested, convicted and incarcerated at rates disproportionate to their share of the general population. Consequently, criminal records-based barriers to housing are likely to have a disproportionate impact on minority home seekers." And, HUD concludes,

such restrictions on housing opportunities "...violate the Act if, without justification, their burden falls more often on renters or other housing market participants of one race or national origin over another."

The guidance explains that criminal history-based discrimination will be analyzed according to the "disparate impact" test under which Fair Housing Act violations are weighed. That is, "...where a policy or practice that restricts access to housing on the basis of criminal history has a disparate impact on individuals of a] protected class, such policy or practice is unlawful... if it is

not necessary to serve a substantial, legitimate, nondiscriminatory interest of the housing provider, or if such interest could be served by another practice that has a less discriminatory effect." [Citing Tex. Dep't of Hous. & Cmty. Affairs v. Inclusive Cmty. Project, Inc., 135 S. Ct. 2507, 192 L. Ed. 2d 514. See also, 24 C.F.R. 100.500].

HUD notes that some landlords and property managers have asserted resident safety and property protection as reasons for denying housing to those with criminal histories. HUD recognizes that such concerns may be legitimate, but says that housing providers must be able to prove that such denials actually

"... the assertion that all persons who have a criminal record pose a greater risk than those who do not, are insufficient to establish a housing provider's 'substantial, legitimate nondiscriminatory interest.'"

serve those purposes. For example, bald generalizations or stereotypes, such as the assertion that all persons who have a criminal record pose greater risks than those who do not, are insufficient to establish a housing provider's "substantial, legitimate nondiscriminatory interest". HUD also

says that housing denials based on one or more prior arrests, without any conviction, are insufficient because arrest records do not constitute proof of unlawful conduct, are often incomplete and are not reliable for assessing potential risks. And, a "blanket" prohibition against providing housing to persons with a conviction record "no matter when the conviction occurred, what the underlying conduct entailed, or what the convicted person has done since" is unlikely to meet the "substantial, legitimate nondiscriminatory interest" test. HUD notes that housing providers may tailor their policies and decisions to exclude individuals with

only certain types of convictions, but only if they distinguish between criminal conduct that indicates a demonstrable risk to resident safety and/or property, and criminal conduct that does not. The HUD Guidance notes an exception in section 807(b)(4) of the Fair Housing Act [42 U.S.C 3607], which does not prohibit housing discrimination based on a conviction of, but not an arrest for, the illegal manufacture or distribution of certain federally controlled substances.

Even if criminal history-based housing decisions are supported by a “substantial, legitimate, nondiscriminatory interest”, Fair Housing Act claimants or HUD may show that such interests could be served by another practice that has a less discriminatory effect. This consideration requires a case-by-case analysis, but HUD says that a housing provider’s assessment of relevant mitigating

information is likely to have a less discriminatory effect than categorical exclusions; such as the facts or circumstances underlying the conviction, the age of the individual at the time, a prior good tenant history, and evidence of rehabilitation efforts. Also, HUD says that housing providers might minimize the costs of such assessments by delaying consideration of a criminal history until an individual’s financial and other qualifications are verified.

The guidance document concludes with an explanation and examples of obvious forms of prohibited intentional discrimination based on criminal histories. This occurs when the provider treats an applicant or renter differently because of race, national origin or another protected characteristic and the use of criminal records or information is a pretext for unequal treatment. ■

Advertising as a 'Team' or 'Group'

Some licensees advertise as a “team” or “group” so they can create a brand and better advertise their professional real estate services, all while staying with their current real estate company.

Oregon laws and rules allow this, but here is what you need to know to make sure you are following those laws and rules:

- You can’t use someone else’s trade or business name as your team or group name.
- At least one member of your team or group must be a real estate licensee (broker, principal broker, or property manager).
- Every member who is a real estate licensee must be licensed to the same registered business name.
- If you list team or group members in your advertising, clearly identify who is licensed and who isn’t.

In addition, all real estate advertising must:

- Have the name of the real estate business you work for prominently displayed, immediately noticeable, and conspicuous. *If a reader can’t tell who you work*

for within 5 seconds, it probably doesn’t meet this requirement.

- Be truthful.
- Be identifiable as advertising from a real estate licensee.
- Not imply that you are more qualified than you are.
- Not suggest that you have more expertise than you do.
- Not make it sound like you have more responsibility in your company than you do.
- Be carried out only with the written permission of the property owner or the owner’s agent.
- Be submitted to your principal broker for review and approval before you use it. *You must keep a record of each approval.*
- If you or other licensees in your team or group are named in the advertising, include either:
 - First and last names as licensed, or
 - A familiar form (nickname) of the licensees’ licensed first names, and the licensees’ licensed last names.

For more information, please read [Oregon Administrative Rule 863-015-0125](#). ■

Administrative Actions

January 22, 2016 through March 9, 2016

The Oregon Real Estate Agency is required by law to publish disciplinary actions. The final order for each action can be viewed by clicking on the individual names listed below.

Please note that there are individuals with real estate licenses that may have similar or the same names as those listed below, even in the same market area. If you are in doubt if an individual listed here is someone you know or with whom you are working, please contact the Agency for verification.

Stipulated settlements do not necessarily reflect all the factual violations initially alleged by the Agency. Sanctions may have been adjusted as part of the negotiation process. Such settlements may not, therefore, directly compare in severity/sanction with other cases.



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The Oregon Real Estate News-Journal is published 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.

Mesheal Heyman, Editor

Vol. 70, No. 3

June 2016

REVOCATIONS

[Heater, Misty Ann](#) (LaPine) Broker 200610118. Final order dated April 6, 2016.

REPRIMANDS

[Hagglund, Kelly K.](#) (Newberg) Principal Broker 981100019. Stipulated final order dated March 24, 2016.

[Olson, Ty R.](#) (Bend) Broker 201207115. Stipulated order dated April 6, 2016.

[Sammons, Anthony Michael](#) (Boring) 200508196. Stipulated order dated May 9, 2016.

CIVIL PENALTIES

Expired - Late Renewals
Civil penalties for late renewals are computed using each 30-day period as a

single offense. The civil penalty for the first period can range from \$100 - \$500, with each subsequent 30-day period ranging from \$500 - \$1000.

[Ordway, Patricia L.](#) (Seaside) Principal Broker 790800175. Stipulated final order dated January 11, 2016 issuing a \$1,600 civil penalty.

[Eilers, Shelley Nicole](#) (Portland) Principal Broker 200108083. Stipulated final order dated March 14, 2016 issuing a \$600 civil penalty.

[Bever, Eva Wright](#) (Eugene) Principal Broker 790800101. Stipulated final order dated March 22, 2016 issuing a \$50 civil penalty.

Unlicensed Activity

[Marty, Derek Jon](#) (Portland) Unlicensed. Stipulated final order dated April 18, 2016 issuing a \$500 civil penalty.