

Oregon Real Estate News-Journal

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Commissioner
Steve Strobe

Advertising Survey

Steve Strobe, Real Estate Commissioner

In February, the Real Estate Agency sent a survey to all Oregon real estate licensees. It focused on three areas: how licensees advertise, how difficult is it to comply with administrative rules on advertising, and what views are held about advertising regulations overall.

The purpose of the survey is to guide the Agency and stakeholders for upcoming rulemaking efforts. Advertising rules have not been updated in a number of years, and certainly much has changed related to the technology and marketing channels currently favored by consumers.

Thank you to the 1,234 licensees who took the time to respond. The results were very informative — both confirming some of our assumptions about where change may be needed as well as providing additional commentary about areas in which a work group may wish to focus.

Survey Highlights

Company Size

The results represented a broad spectrum of business types. Of the responses:

- 24% work for a company with one licensee.
- 28% work for a company with two to ten licensees.
- 18% work for a company with 11 to 100 licensees.
- 17% work for a company with 101 or more licensees.
- 13% weren't sure of the total number of licensees within the company.

Team or Group

The survey asked if the licensee advertises as a part of a team or group. Of those who responded to that question, 30% said yes.

*Please see **Advertising Survey** on page 2*



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Advertising Survey

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Online & Social Media

Most licensees who responded use some sort of online advertising. For all license types, the top five were:

- Facebook (75%)
- Company or personal websites (66%)
- Zillow/Trulia (49%)
- Instagram (41%)
- Realtor.com (39%)

Principal Broker Review & Approval

The survey asked how difficult it is for principal brokers to comply with administrative rules that require prior approval of advertising by their associated brokers.

For principal brokers, the top three issues were:

1. The nature of social media and online advertising makes it difficult to review and approve.
2. Principal brokers have a difficult time getting brokers to comply.
3. The amount of advertising generated creates workload issues for principal brokers.

For broker, the top three issues were:

1. The length of time it takes to get principal broker approval is detrimental to clients and business.
2. The nature of social media and online advertising makes it difficult, or near impossible, to get principal broker's approval prior to publication.
3. The amount of advertising now generated by a company, even for one listing, creates compliance issues.



Recordkeeping

The survey asked about the current record keeping requirements for advertising. Not surprising, in light of the response above, nearly 47% of brokers and principal brokers find compliance difficult.

Legal Name

A licensee using their name in advertising is required to use their legal first name, or a common derivative of their legal first name, and their legal last name.

The survey asked about issues in complying with this requirement. Issues were noted when:

- Licensees are known by their middle names.
- Licensees get married and want to change their legal names, but wish to continue to use their previous names for professional reasons.
- Licensees' legal names are difficult to spell or pronounce.
- Licensees are concerned with privacy.

Next Steps

After reviewing the survey responses and all individual comments, the Agency will begin the rulemaking process. This consists of drafting proposed rules, convening a work group of stakeholders, and holding a public comment period. More info about the rulemaking process can be found [here](#).

The current goal is to complete the process by the third quarter of 2020. That said, our top priority is the health and safety of Agency employees and our licensee community during the COVID-19 pandemic. I am writing this article during a time in which most Agency employees are working remotely and practicing social distancing. Work goes on, and we're prepared to adjust timelines in order to best serve the regulated community.

During this unprecedented time, please care for yourself and others by staying home unless absolutely necessary and practicing social distancing. ■

Agency's COVID-19 Response

Due to the continued spread of COVID-19, Governor Kate Brown signed an [executive order](#) requiring Oregonians to stay home unless absolutely necessary. The Oregon Real Estate Agency is complying with this order in the following ways:

Office Closed

The Agency's office is closed to the public. You can still reach us by phone or [email](#) Monday through Friday, 8 a.m. to 5 p.m.

Online Services Available

Most Agency services are still available 24 hours a day via [our online licensing system, eLicense](#).

Continuing Education Extension

Licensees renewing active in April have the option to extend the deadline for continuing education.

Licensees must still renew and pay the renewal fee in eLicense by the expiration date. Continuing education must then be submitted by the end of May. March renewals were given a similar extension option.

Exams, Fingerprinting Suspended

[PSI has suspended fingerprint and license exam services](#) at all PSI test centers. License applicants are encouraged to [reschedule online with PSI](#).

Rulemaking Hearing by Teleconference

The Agency's rulemaking hearing scheduled



for April 16 will be held by teleconference.

This hearing is part of the process to establish permanent rules for the temporary authorization of spouses and domestic partners to conduct professional real estate activity.

[View the Notice of Proposed Rulemaking for more information.](#)

Staff Health & Wellbeing

All Agency staff are now assigned to work primarily from home. Authorized employees work at the office as-needed, separately from each other.

These are unprecedented times for everyone. The Agency continues to review and revise its response under the direction of the Governor and as advised by the Oregon Health Authority and the CDC. [See the Agency's website for the latest updates.](#)

For the most current information on COVID-19 in Oregon, [visit the Oregon Health Authority's COVID-19 Updates.](#)

Please stay home to stay safe and save lives. ■

Coronavirus and the Agency FAQs

The Oregon Real Estate Agency understands that this is an unsettling time for everyone. We want to provide you with as much information as possible on how the spread of COVID-19 is impacting Agency services and the regulation of professional real estate activity.

We hope the following frequently asked questions will help answer some of your questions.

As a member of the real estate profession, how is my occupation affected by COVID-19 and Governor Brown's "stay at home" order?

We understand how the current situation may cause you concern, but the Agency cannot provide direction on business decisions.

We encourage you to make choices that promote the health and safety of yourself, your colleagues, your friends and family, and the public.

Here are some resources to help you:

- [Governor Brown's Executive Order No. 20-12](#)
- [COVID-19 Resources for Oregonians](#)
- [Oregon Health Authority COVID-19 Updates](#)
- [CDC – Coronavirus \(COVID-19\)](#)

My license expires in April. What are my options during this crisis?

- Complete your continuing education and renew your active license (\$300) by April 30.
- Renew your active license (\$300) by April 30 and choose the option to delay your continuing education submission until May 31.
- Renew your license inactive (\$150) by April 30, complete your continuing education, and then reactivate your license (\$150). *Please note: You cannot conduct professional real estate activity while your license is inactive.*
- If your license expires, complete your continuing education and then renew your license late. (\$300 + \$150 late fee). *Please note: You cannot conduct professional real estate activity while your license is expired.*

You have one year from your license expiration date to renew late or [your license will lapse](#).

I intend to hire a person whose license exam was canceled by PSI. What can I tell this person to do?

To ensure the safety of the public, PSI has temporarily closed PSI-owned test centers and suspended exam and fingerprinting services.

At this time, PSI is rescheduling exams for future dates. But as the situation changes, license applicants should regularly [check PSI's website for updates](#).

Can I come to the Agency's office in person?

The Agency has temporarily closed lobby access for the safety of the public and Agency staff.

Agency staff can still be reached by phone and email during normal business hours. All applications, renewals, license transfers, and other licensing processes can still be completed through [eLicense, our online licensing system](#).

Can I still file a complaint against another licensee with the Agency?

Yes, the Agency is still accepting [complaints by email only](#).



Adequate Transaction Files When Representing a Buyer

Principal brokers must maintain adequate records of all professional real estate activity conducted by themselves and their associated licensees ([ORS 696.280](#)). This includes all records, written and electronic, generated or received by a licensee in the course of professional real estate activity.

Buyer representation can occur by a written, signed agreement (known as a buyer representation agreement, buyer's broker agreement, or buyer listing), or by an oral agreement. Oregon real estate license law places affirmative duties on buyers' agents ([ORS 696.810](#)). Complete records can assist an agent in meeting those affirmative duties.

Files for transaction when a licensee is representing a buyer should include the following records *as applicable*:

- The buyer's representation agreement, including fee arrangements.
- Any document, acknowledged by the buyer, containing the buyer's "want list."
- Pre-qualification letters obtained by the buyer from a lender.
- Disclosed Limited Agency agreement, if needed.
- Comparative market analyses (CMAs) prepared for the buyer in connection with any actual or proposed purchase.
- Records of promises, pledges, or agreements made by the agent as part of the effort to obtain the buyer representation agreement.
- Record of properties shown to buyer.
- Modifications to, and extensions of, the buyer's representation agreement.
- Evidence of

timely supervision by principal broker (dated initials on all documents of agreement, including modifications and extensions).

- Estimates of buyer's down payment and closing costs, if provided.
- Licensee's diary notes generated in representing the buyer.
- Copies of correspondence, email, and faxes to or from the buyer or buyer's representative.
- Sales agreement for rejected and accepted offers.
- Copies of any earnest money check, account number redacted.
- Copy of preliminary title report.
- All sales agreement addenda.
- Closing statement.
- Seller's Property Disclosure Statement.
- Home inspections.
- Bids for repair.
- Receipts for complete work.
- Lead-Based Paint Disclosure Addendum.
- Any other disclosure forms or addenda required by supervising principal broker.

This is not an exhaustive list. Based on the type of transaction or property, there may be other records generated or received that may be needed for a file to be considered adequate. ■



Image by [Jonathan Sautter](#) from [Pixabay](#)

Resource for Timeshare Scam Victims

Aaron Grimes, Financial Investigator/Auditor, Oregon Real Estate Agency

Recently, an escrow and timeshare resell company came across my desk as the subject of an investigation. The company approached a timeshare owner to “rent” their 20 banked weeks. Before giving any funds, the company instructed the owner to wire \$14,000 to its escrow account for a \$700 a week cleaning fee. The owner researched the company and found they were not licensed with the Oregon Real Estate Agency as an escrow company.

The escrow company’s website looked legitimate, offering “escrow services with integrity, accuracy, and superior customer service.” They explained all aspects of the escrow process and gave information about themselves. The Oregon Secretary of State’s website stated the company was registered.

I arranged to meet a representative of the company in the lobby at their listed office in Portland. I was not entirely shocked when nobody met me in the lobby since they had not advertised a suite number and seemed to have hijacked the company name.

The Oregon Department of Justice also investigated this company, but aside from the bogus Oregon address for the company, there was nothing else to tie them to Oregon. Victims were found from North Dakota, British Columbia, Utah, Colorado, and Minnesota. Contracts were written up by different companies throughout North America, with the escrow company listed as “escrow” for each of the transactions. So long as wiring instructions for a cleaning fee, a foreign registration fee, or some other bogus last-minute fee were followed, the company was in the picture. Big promises made were not kept once the money flowing to foreign bank accounts stopped.

If you or a client start receiving these types of nefarious offers, the FBI has a website where they aggregate complaints, run reports, and use the data to build cases like this. Visit the FBI’s Internet Crime Complaint Center (IC3) website at <https://www.ic3.gov/complaint/splash.aspx>. ■

Use Correct Initial Agency Disclosure Pamphlet Link

If you provide the Initial Agency Disclosure Pamphlet to potential clients by weblink via some electronic method, such as email, text, or social media post, make sure you use the right link. Unfortunately, some potential clients are being sent an old link that no longer works.

Brokers and principal brokers must provide a copy of the Initial Agency Disclosure Pamphlet at the first contact with a prospective party to a real estate transaction, or an unrepresented party seeking

representation, during the course of a real estate transaction per [Oregon Revised Statute \(ORS\) 696.820](#).

Providing a link to the pamphlet is a great way for brokers and principal brokers to meet the statutory requirement. But if you choose to distribute it electronically, please check your link. Be sure that you are using the correct link: <https://www.oregon.gov/rea/licensing/Documents/Initial-Agency-Disclosure-Pamphlet.pdf>. ■

HUD Releases Assistance Animal Recommendations

In January, the U.S. Department of Housing and Urban Development (HUD) published a new notice to help housing providers avoid violating the federal Fair Housing Act. The notice provides recommendations, guidance, and best practices for assessing and documenting accommodation requests that involve animals.

- [Assessing a Person's Request to Have an Animal as a Reasonable Accommodation under the Fair Housing Act](#)
- [Fact Sheet on HUD's Assistance Animals Notice](#)

If you have questions, please contact your [regional HUD Office of Fair Housing and Equal Opportunity](#). ■

Open Investigation Case Review

At end of 2019, Real Estate Commissioner Steve Strode ordered an internal review of open investigations with start dates prior to his February 26, 2019, appointment to the Oregon Real Estate Agency. In this review, a number of cases still waiting final resolution or settlement were identified.

Some of these cases were interrelated, while others were pending the result of

outside litigation. Under current protocols, most would have been closed already. In each case the investigation had already been completed, so the Agency is in the process of closing these as quickly as possible.

As a result, you may see an increase in the number of disciplinary actions published in the Administrative Actions section of future *Oregon Real Estate News-Journals*. ■

Administrative Actions

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 the same or similar 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 you are working with, 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 or sanction with other cases.

REPRIMANDS

[Shedden, Barbara Jean](#) (Keizer) 201109056. Stipulated Final Order dated March 12, 2020.

CIVIL PENALTY

Unlicensed Activity

[Bauske, Deborah](#) (Seaside) Unlicensed. ■

Stipulated Final Order to Cease and Desist dated March 2, 2020 issuing a \$6,600 civil penalty.

[Bananno, Paul](#) (California) Unlicensed. Stipulated Final Order to Cease and Desist dated March 12, 2020 issuing a \$250 civil penalty.

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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

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