

# Oregon Real Estate News-Journal

Official Publication of the Oregon Real Estate Agency

Volume 74, Number 4, August 2020



Commissioner  
Steve Strobe

## Property Management: An OREN-J History

Steve Strobe, Real Estate Commissioner

Regular readers of the Oregon Real Estate News-Journal (OREN-J) will have observed that the Oregon Real Estate Agency has dedicated numerous pages to the topic of property management over the years. In fact, in a cursory review of past issues, I noted that over two dozen property management-related articles have been penned by the commissioner, Agency staff, and past Real Estate Board members since 2015.

Professional real estate activity consists of numerous areas of specialization, and the role of occupational licensure is to ensure that any applicant meets the minimum competencies to enter the business. Upon passing the licensure exam, any new licensee's journey has just begun. A residential real estate broker's focus will be different than that of a commercial broker's, and a residential property manager will have different

challenges than that of a commercial property manager. It is incumbent on licensees to seek further information, educational resources, and professional expertise that enable them to excel in areas in which they wish to specialize.

That said, since property managers can handle large sums of clients' trust funds, the Agency does take a proactive, ongoing regulatory role to protect consumers. This explains why so much space in the OREN-J has been dedicated to articles ranging from [clients' trust account Q & A's](#) to [reconciliation tips](#) to announcing the release of a YouTube video [on how to complete a 3-way reconciliation](#). Moreover, while most broker and principal broker investigations result from complaints being submitted to the Agency, many investigations related to property management are opened by the Agency itself. These stem from the results

*Please see **Property Management** on page 3*



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## Views from the Board

# Think Twice Before Submitting a Buyer Letter to a Seller

*Kim Hedding, Oregon Real Estate Board Member*



*Kim Hedding*

"Views from the Board" features the opinions of Real Estate Board members. The views expressed are not necessarily those of the *Oregon Real Estate News-Journal*, the Oregon Real Estate Agency, or Agency staff. The message provided does not, and is not intended to, constitute legal advice; all content is for informational purposes only.

Before the death of George Floyd and the expanding social movement for racial justice in our country, submitting buyer letters to sellers was already a risky business for brokers due to the federal [Fair Housing Act](#). The Fair Housing Act provides, in part, that sellers cannot refuse to sell a house based on race, religion, color, national origin, sex, family status, or disability. [The Oregon Equality Act](#) extends this to source of income, status as domestic violence survivor, sexual orientation, and gender identity.

Most letters follow the same format of eager buyers wanting to introduce themselves. These letters typically contain a brief bio about the buyers, why they love the home, and why the seller should sell to them. While these letters may seem innocent enough, there are some very real issues with them that can violate fair housing laws.

Consider the submission of a photograph with the letter. These photos can give details to the seller like race, social class, color, national origin, sex, family status, or disability, all of which are protected under the Fair Housing Act. Picking a buyer or rejecting a buyer based on any of the protected classes is against the law. I have seen in the last several months a case where a seller was indeed influenced by a buyer letter and the attached photos. The seller accepted a lower offer because they wanted to sell to these particular buyers.

And this is where the legal liability for you and your seller enters the picture. Your seller, after viewing the buyer letter and photograph, ends up accepting the offer from the nice family and not the offer from the single individual. In this situation,

both the listing broker and the seller could potentially be named as a party in an action against the seller. The listing broker could be found to have assisted their seller in making a discriminatory decision based upon the protected classes mentioned in the letter.

It is advisable that listing brokers inform the seller of the potential liability that these letters carry and strongly encourage the seller not to accept them. Listing brokers should keep detailed notes in their file about the efforts they took in advising their sellers to not accept these letters.

In conclusion, the time is now to once and for all do away with buyer letters. The liability to both sellers and brokers, and, most importantly, the personal pain to protected classes, is just too great of weight to bear.

*Editor Note: Kim Hedding is principal broker and co-owner of Golden Realty in Eugene. She is an industry member of the Oregon Real Estate Board.* ■

## **Next Real Estate Board Meeting**

**October 5, 2020, 10:00 a.m.  
by videoconference**

All are welcome at this regularly scheduled general meeting of the Oregon Real Estate Board. Please contact [Leandra Hagedorn](#) for information on how to attend.

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# Continuing Education Deadline Extended During COVID-19 Pandemic

If you are a broker, principal broker, or property manager, the coronavirus may make it more difficult for you to complete the required continuing education before your license expiration date.

The Oregon Real Estate Agency understands this and is currently offering a 30-day extension if you are renewing your license active.

To get the 30-day extension:

- [Log into eLicense](#) to renew your license active. (You can only do this in the month your license expires.)
- Choose the option in the eLicense renewal application to delay your continuing education submission.
- Complete the renewal process and pay the license renewal fee (\$300) by your license expiration date.
- Finish your [required continuing education](#) and email your continuing education

course certificates to the Agency within 30 days following your license expiration date.

**Please note that you must complete the renewal process and pay the active license renewal fee by your license expiration date to qualify for the extension.** Failure to complete the renewal process, including paying the fee, will result in your license expiring and becoming inactive. You may not conduct professional real estate activity with an inactive license. If you later need to renew your license late, you will have to pay a \$150 late renewal fee in addition to the \$300 renewal fee.

Look up your license expiration date in [eLicense License Lookup](#).

[Visit Continuing Education Requirements](#) and select your license type to find your continuing education requirements. ■

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## Property Management

*Continued from page 1*

of clients' trust account reviews. Last year, the Agency completed 360 such reviews.

With respect to property management, a licensee has affirmative duties as outlined in [ORS 696.890](#), which include requirements such as exercising reasonable care and diligence, acting in a fiduciary manner in all matters relating to trust funds, and not taking any action that is detrimental to the owner's interest. [As the Agency wrote in a prior OREN-J](#), when interacting with property managers on clients' trust account reviews or conducting investigations, staff often have heard comments such as, "I'm a property manager, not an accountant!" In my opinion, the more appropriate response from those licensees would be "I'm a property manager without a background in accounting, so I read all your [OREN-J tips](#) and watched your [video](#)!"

The Agency adheres to a progressive disciplinary process, but, as my predecessor wrote back in February 2018, the severity of a violation may result in suspension or revocation should a case warrant such an action. We continue this established regulatory approach.

Additionally, the Agency continues to strike a balance between education and administrative actions. As a part of this effort, you will see [a list of property management-related articles](#) later in this issue as a handy reference. All past OREN-J issues on that list can be [referenced here](#). Remember that statutes and rules change over time, so be sure to reference the most current of each as appropriate. We are also working on a Property Manager Resource Guide, which will be released during the fourth quarter of this year. ■

# Past Property Management Articles in the Oregon Real Estate News-Journal

The following list are property management-related articles from the Oregon Real Estate News-Journal published in the last five years. Click the headings to connect to the corresponding issues.

## [February 2015](#)

- The "Client Trust Account" Issue, page 1
- Common Violations in Clients' Trust Account Mail-In Audits, page 4 (*Editor's Note: These are now called Clients' Trust Account Reviews.*)
- Clients' Trust Account Questions and Answers, page 5
- Reporting Outstanding Checks to Oregon Department of State Lands, page 8
- Highlighting Clients' Trust Accounts, page 9

## [April 2015](#)

- Property Management: It's All About the Property Owner, page 1
- How to Keep Your Clients' Trust Account Inventory Up-to-Date with the Agency, page 4
- Written Policy Required for Property Management When Supervising Others, page 5
- Required Elements of a Property Management Agreement, Page 6
- Duties Owed to Owner When Managing Rental Properties, page 7

## [June 2015](#)

- 10 Things That Property Managers (and Brokers) Must Do to Prosper, page 2

## [April 2016](#)

- Reconciling Clients' Trust Accounts, page 1

## [October 2016](#)

- Clients' Trust Account Video Now Available (How to complete a 3-way reconciliation), page 5

## [September 2017](#)

- Law and Rule Changes Coming, January 1, page 1

## [October 2017](#)

- Unreported Opened, Closed Clients' Trust Accounts May Result in Disciplinary Action, page 2

## [December 2017](#)

- Property Management Law, Rule Changes Effective January 1, 2018, page 5
- Clients' Trust Account Law, Rule Changes, page 7
- Notify Agency of Opened, Closed Clients' Trust Account in 10 Business Days or Face Discipline, page 8
- Written Supervisory Agreements: Content Clarified in New Law, page 9

## [February 2018](#)

- Cracking Down on Clients' Trust Account Law, Rule Violations, page 1
- 10 Most Common Issues Found in Mail-In Reviews - Trust Account Reconciliations, page 4

## [June 2018](#)

- "I'm a Property Manager, Not an Accountant!" Is this You? page 4
- Affirmative Duties Owed By Property Managers, page 5

## [October 2018](#)

- All Property Managers Need Clients' Trust Accounts, page 1

## [March 2019](#)

- Have outstanding checks?- Property Managers Must Report Unclaimed Property, page 4

## [October 2019](#)

- Property Managers Owe Affirmative Duties, Too, page 5

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## Handling Transactions, Commissions After a Transfer

# Not Just Good Business Practice

*Meghan Lewis, Compliance Coordinator, Oregon Real Estate Agency*

Good business practice can be open to interpretation, overlooked in the midst of a transition, or, simply, lost in translation. To clarify, promote, and safeguard lawful business practice in professional real estate activity, referring to Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR) is good business practice for the licensee and the consumer. Brokerage policy and procedure may vary, but if a matter falls under the authority of ORS chapter 696 and OAR chapter 863, these laws and rules must be followed.

When a real estate broker transfers brokerages, the Oregon Real Estate Agency receives occasional inquiries about what to do with the transactions the broker began while associated with the sending principal broker. The rule for this is found in **OAR 863-014-0063, Real Estate Licensee Transfers, Principal Brokers' Responsibilities, and Authority to Use Registered Business Name**. Sections (6) and (7) of this rule apply specifically to transactions involving the sale, exchange, purchase, or lease of real estate where there is a fully executed contract, an active written offer or counter-offer, or a letter of intent. A transaction may be transferred with a broker only with the client's documented approval and upon written agreement between the sending and receiving principal brokers. This rule clearly states all parties must agree to the transfer of the transaction, and it must be documented.

In addition to all parties being in agreement, the rule states the written agreement must identify:

- The principal broker responsible for supervision and record retention;
- The transaction or transactions subject to the agreement;
- The effective date;
- The agency relationships; and
- How compensation will be handled.

The agreement must be signed by the sending and receiving principal brokers and

the transferring broker. The complete rule for real estate licensee transfers, principal brokers' responsibilities, and authority to use a registered business name can be found in [OAR 863-014-0063](#).

Occasionally, all parties may not agree to the transfer of a pending real estate sale transaction and the anticipated compensation earned. According to **ORS 696.710(2), Necessity of alleging license in action to collect compensation**, an action for collection of compensation from a client for professional real estate activity, conducted by a real estate broker associated with a principal real estate broker, may not be brought, or maintained, except by the principal real estate broker with whom the real estate broker was associated when the alleged cause of action arose. In other words, per ORS 696.710(2), compensation is earned at the time the professional real estate activity took place to cause the compensation. If this occurred with the sending principal broker, the right to compensation earned remains with the sending principal broker. The complete law on when compensation is earned can be found in [ORS 696.710](#).

Similarly, when a broker license is inactive, or no longer associated to a principal broker when compensation is earned, follow **ORS 696.290(5) Sharing compensation with or paying finder's fee to unlicensed person**, which explains the allowance for payment of compensation earned by a real estate broker, or principal real estate broker, while associated with a different principal real estate broker, or because of inactivation of the real estate broker's or principal real estate broker's license. The compensation may be paid directly to the real estate licensee by the principal real estate broker with whom the real estate licensee was associated at the time the professional real estate activity for which the compensation was earned was conducted.

The complete law on sharing compensation

*Please see **Business Practice** on page 6*

# Text Messaging Scams Are Targeting Licensees

Even before COVID-19, much of work and daily life was done at a distance. Now, people use phones, emails, and text messaging more than ever to do business and stay in touch.

Scammers know this and are taking advantage of this new normal. They are becoming more sophisticated and tenacious in their attempts to get what is not theirs. This means that we all must carefully evaluate the messages we receive, even when they appear to be from someone we know.

Reports of text messages scams directed at real estate licensees have come from all over the country, including [Idaho](#), [Arkansas](#), and [Texas](#).

Recently, the Oregon Real Estate Agency was alerted to text messages sent to licensees of a real estate company in Bend. The message appeared to be from the principal broker of the company, asking recipients to complete a task. The text message was not from the principal broker. Luckily, it was brought to the attention of the principal broker before anyone replied. Reports nationwide say that replying to such messages can lead to being asked to make purchases, usually gift cards, for a client. The scammer then asks for pictures of the cards or the card numbers.

Scams can and do change all the time. Here are some tips on avoiding phishing scams and hacking:

- Be wary of messages and phone calls claiming to be from someone you know, like a client or supervisor, from a number or email address you do not have on file.
- Always be cautious when deciding to open an attachment or click a link in an email or text.
- Verify the person is who they say they are before you act by calling or emailing the person using a number or email you already have on file.
- Principal brokers should consider establishing company policies about how to handle work-related purchases and internal communications to address possible risks.



Image by [RusVPN](#) from [Pixabay](#)

- Advise clients about the possibility of phishing and hacking scams and suggest they research ways to protect themselves.
- Use caution when connecting to unsecure Wi-Fi networks, such as those in coffee shops or retail stores.
- Stay up-to-date on the latest scams by reading industry blogs and publications. ■

## Business Practice

*Continued from page 5*

may be found in [ORS 696.290](#).

Again, good business practice can be open to interpretation, and not all parties may agree. When this occurs, don't hesitate to contact the Agency's Licensing and Education division for assistance with Oregon Revised Statutes and Administrative Rules.

Be advised; deviation from the statutes or rules that regulate real estate license law puts a licensee at risk for sanction by the Agency. ■

# 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.

## REVOCATION

[Webber, Cynthia Ziebert](#) (Springfield), Property Manager 930400183, Final Order dated June 9, 2020.

[Kopp, Sherry Patricia](#) (Beaverton) Principal Broker 201107057, Stipulated Order dated July 10, 2020, issuing a revocation.

[Howard, Mary M.](#) (Seaside), Principal Broker 851100210, Default Order dated July 14, 2020, issuing a revocation.

[Eichler, Everett B.](#) (Applegate), Property Manager 960300224, Stipulated Order dated August 3, 2020, issuing a revocation.

[Shequin, Mark E.](#) (Walton), Principal Broker 200601296, Stipulated Order dated August 4, 2020, issuing a revocation.

## REPRIMAND

[Conrad, Shelley Gretchen](#) (Klamath Falls), Broker 990400237, Stipulated Order dated June 11, 2020, issuing a reprimand.

[Dieter, Rosalie A.](#) (Harbor), Principal Broker



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200407126, Stipulated Order dated June 11, 2020, issuing a reprimand.

[McVay, Mathew Kent](#) (Klamath Falls), Property Manager 200404125, Default Order dated June 30, 2020, issuing a reprimand.

[Friesen, Noelle P.](#) (Portland), Property Manager 901212448, Stipulated Order dated July 6, 2020, issuing a reprimand.

[Daggett, Travis](#) (Eugene), Broker 201224095, Stipulated Order dated July 27, 2020, issuing a reprimand.

[Voss, Richard R.](#) (Portland), Principal Broker 911100175, Stipulated Order dated August 4, 2020, issuing a reprimand.

[O'Hara, Toni Lynne](#) (Prineville), Property Manager 200407225, Stipulated Order dated August 24, 2020, issuing a reprimand.

## CIVIL PENALTY

[First American Title Insurance Company](#) (Portland), Escrow Agent 850600257, Stipulated Order dated August 12, 2020, issuing a civil penalty of \$3,000. ■

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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. 74, No. 4

August 2020