

# Oregon Real Estate News-Journal

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Commissioner  
Steve Strobe

## Information Is Key in Staying Out of Trouble

Steve Strobe, Real Estate Commissioner

I was talking with a principal broker recently. He quipped about what he tells his new brokers: “The best way to deal with the Real Estate Agency is to not have to deal with the Real Estate Agency.” As it was in the context of teaching new licensees how to follow statute and rules and to stay out of trouble, we both chuckled. And since the Real Estate Agency first and foremost serves a consumer protection role, there is an element of truth in his joke.

But as countless people who have called the Agency will attest, we treat everyone who contacts us as our valued customer: current licensees, prospective licensees, the public, and other agencies. We track our performance, as would any private-sector call center, by measuring wait times and surveying caller satisfaction in the areas of accuracy, availability of information, expertise, helpfulness, and timeliness.

The mission of the 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.

So, as the principal broker joked, a licensee’s goal of staying out of trouble aligns with our mission, too. But it’s important to remember there are some easy and proactive ways to help you serve your clients better (or, through the Agency’s lens, protect the consumer).

What are some ways to ensure compliance?

### Keep the Agency Informed

Keep us informed by maintaining your current mail and email addresses with the Agency. Not only is it required ([Oregon Administrative Rule 863-014-0062](#)), it helps

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## **Information Is Key**

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you. Make sure emails from the Agency are not considered spam by adding them to your “safe sender” list. License renewals, registered business name renewals, and clients’ trust account review requests are all sent by email, not the U.S. Postal Service. To tell Agency staff “I didn’t get the email” is the modern-day equivalent of “the dog ate my homework.”

If you currently have one email account for everything imaginable, consider setting up a separate one for essential business only, such as renewals and alerts from the Agency, professional or trade associations, and the like.

### **Keep Yourself Informed**

To keep informed, keep reading the OREN-J as you’re doing now — and tell your colleagues to sign up if they haven’t done so. The Agency strives to write about issues that are relevant to the licensee community. If you have any ideas for future articles, please don’t hesitate to reach out to me directly.

The Law and Rule Required Course (LARRC) is also an effective way to stay informed of changes. While not required to be completed until renewal time, avoid the temptation to wait until the final days before renewal since any changes covered in the

course may have been in effect for up to two years at that point. The Agency and Real Estate Board will create and approve a new LARRC outline after the legislative session ends, effective January 1, 2020. We welcome your suggestions.

Next, view [continuing education](#) as an opportunity. Once you get past your first renewal, Oregon statute gives you significant autonomy in choosing 27 of the 30 required hours of continuing education. (LARRC takes up the remaining 3 hours.) Ask yourself these questions: Are the courses you are choosing supporting your business and helping your clients (protect the consumer), or are they simply something you’re taking under pressure in the waning days and hours before your renewal deadline? Do you consider them an investment in yourself and your clients, or just a necessary expense of time and energy?

Finally, give your course instructors or sponsors feedback. Whether they volunteer or are paid, they want to make your time worthwhile. Real estate is a very interconnected industry, and it’s everyone’s responsibility to make it the best it can be.

We always welcome feedback from our stakeholders, so please don’t hesitate to contact me at [orea.commissioner@oregon.gov](mailto:orea.commissioner@oregon.gov). ■

## ***Next Board Meeting in Hood River***

**August 5, 2019 at 10:00 a.m.**

**[Best Western Plus Hood River Inn](#)**

The Oregon Real Estate Board's next general meeting is in Hood River.  
The public is invited to attend.

# Principal Broker Advanced Practices Course Required Starting July 1

*Renewing your active principal broker license for the first time on or after July 1, 2019?*

*Reactivating your principal broker license for the first time on or after July 1, 2019 after an inactive first renewal?*

You must complete these two specific [continuing education](#) courses to renew or reactivate your license:

- 27-hour Principal Broker Advanced Practices (PBAP) course.
- 3-hour Law and Rule Required Course (LARRC).

## **Where do I find these classes?**

A list of approved PBAP and LARRC providers are available at <https://orea.elicense.irondata.com/Lookup/GenerateRoster.aspx>.

## **Why do I have to take PBAP?**

The Oregon Legislature passed House Bill 4048 in 2018 that amends Oregon Revised Statute 696.174. The law now requires an advanced practices course for principal brokers for their first active license renewal.

## **What about other courses I have taken?**

Only the 27-hour PBAP course and the 3-hour LARRC will meet requirements for an active first renewal of a principal broker license. Other courses taken will not count.

## To Each Their Owner Held . . .

# Tenant Security Deposits

*Meghan Lewis, Investigator/Auditor, Oregon Real Estate Agency*

To an unlicensed individual, property management may seem as simple as a putting up a “For Rent” sign and collecting the rent. To a licensed property manager, principal broker, or broker performing management of rental real estate when associated with and supervised by a principal broker, there are many facets. One of those many facets is owner held tenant security deposits.

The content required for written supervisory agreements depends on the makeup of your company.

Aspects of owner held tenant security deposits are regulated by the Oregon Real Estate Agency in Oregon Administrative Rules (OAR) Chapter 863 Division 25. Hopefully this article will eliminate guesswork for some of you and shore up practices for others.

First, let’s clarify, what a security deposit means. A security deposit means a conditionally refundable payment or deposit of funds, however designated, the primary function of which is to secure the performance of a rental or lease agreement or any part of a rental or lease agreement. [[OAR 863-025-0010\(19\)](#)]

The tenant rental or lease agreement must include the amount of, and reason for, all funds paid by the tenant to the property manager. This includes, but is not limited to, rent, conditionally refundable deposits whether held by the property manager or property owner, and any fees or other charges. [[OAR 863-025-0045\(1\)](#)]

When a property manager opens a clients’ trust account (CTA) for a single property, and the property management agreement and

the corresponding lease or rental agreement provide the security deposit will be transferred and held by the property owner, the tenant security deposit must first be deposited into the CTA. Then it must be disbursed to

the owner in the month in which it was received. [[OAR 863-025-0030\(3\)](#)] The security deposit is not owner held until it is disbursed to the property owner.

Otherwise, if the terms of the agreements specify the tenant security deposit will be

held by the property manager, the property manager must deposit the tenant security deposit into the property manager’s security deposits account within 5 banking days after the receipt. [[OAR 863-025-0025\(7\)](#)]

When a property management agreement and a corresponding lease or rental agreement provide that the security deposit will be transferred to and held by the property owner, and the funds are a check made payable to the owner, they must be delivered to the owner within 5 banking days.

In addition to delivering funds within 5 banking days, for checks made payable to the property owner, the property manager must also keep the following information: date received, name of payor, purpose of payment, identifying code, date delivered to owner and documentation of delivery to owner. [[OAR 863-025-0065\(1\)-\(3\)](#)]

Please don’t hesitate to contact the Agency with questions regarding OAR Chapter 863. As a reminder, the Agency does not regulate [Oregon Revised Statutes Chapter 90, Residential Landlord and Tenant laws](#). ■



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# Timeshare Scams Get More Sophisticated

*Lisa Montellano, Investigator/Auditor, Oregon Real Estate Agency*

In the [October 2016 edition of the Oregon Real Estate News-Journal](#), we ran an article on timeshare scams the Agency had received reports of. The Agency continues to receive reports of these scams and would like to provide an update on the more elaborate techniques being employed in timeshare scams today.

In past scams, the scammers would use the name of a legitimate real estate company, set up a fake website to appear to be that company, and sometimes set up the website for a fake escrow company which was held out to be a neutral third-party which could hold buyer's and seller's funds. Scammers would then cold call a timeshare owner claiming to have a buyer with an offer to purchase the timeshare without paying anything up front. They would even provide fraudulent bank statements as proof of buyer funds. When the deal appeared ready to close, the scammers would notify the seller that the Mexican government has a tax or fee that must be paid before the transaction could close, usually between \$2,000 and \$3,000. Once the seller paid the alleged tax or fee, the scammers would request additional taxes or fees in order to close, leaving the seller to decide whether to continue paying in hopes of selling their timeshare or to pull out and risk losing the sale.

Recent scams have become more sophisticated. Scammers are locating the names of escrow and property management companies whose Oregon Secretary of State Corporations Division business registry records have expired and gone into administrative dissolution. The scammers pay the renewal fee for the business record, change the members or officers names and addresses, and assume that company's registration history along with the name, which makes it appear more legitimate to potential victims. They often use the names of past victims and virtual office addresses on the business records, making it nearly impossible to track them. The scammers then set up a corresponding website and proceed to contact

timeshare owners, claiming to have a client who wishes to either buy time in the timeshare or purchase it outright. The scammers are even providing victims with names and telephone numbers of past "clients" as references that the seller can call to verify their successful timeshare sales. Recently, one victim reported to the Agency that he called five different references who all seemed to be legitimate. He stated that he could hear background noise that appeared to be families or spouses during the phone call. In this case, the scammers assumed the name of an Oregon escrow company, but their primary business was done through a Colorado travel services company whose name also appears to have been assumed by the scammers. The victim reported that he checked the Oregon Secretary of State's records and it appeared the escrow company had been in business since 1984, causing him to believe the company was valid.

The Oregon escrow company whose name had been assumed was forced to change their company name in order to renew and continue business. In addition to that, they have been forced to deal with ongoing phone calls and emails inquiring about these timeshare offers and other deals the scammers are advertising under their former name.

As in the past, once a deal is near closing, the sellers are notified that there is a Mexican tax or fee that must be paid before they can close. In recent scams, to sweeten the deal, they offer to refund the tax or fee to the seller at closing. Once victims realize this is not a legitimate sale and stop sending funds, they are contacted a few weeks later by someone claiming to be an attorney. This attorney tells them he heard they are a victim of a timeshare scam and that he is a "restitution expert" who can assist them in recouping their lost funds. The only requirement is that they pay his \$1500 retainer up front, and in no time, their money will be returned. This is how the scammers glean additional funds from their victims. ■

# Reports of Fake Powers of Attorney for Real Property Sales

The Oregon Real Estate Agency has received reports of people with fake power of attorney documents trying to sell other people's real property.

The scammers provide the phony documents to brokers, county clerks, and escrow offices to start the sales process. In some cases, the property owner does not know what is happening until the sale is completed.

The Agency cautions brokers to review any power of attorney document carefully. If there is a doubt about the validity of such a document:

- Contact the property owner.
- Check county records for the recorded power of attorney.
- Confirm the notary public used to notarize the document.
- Consult with your attorney. ■



## ***Background Checks Taking Longer***

If you know of a license applicant waiting for the background check to clear, please let them know that the process is currently taking longer than in the past.

Fingerprints are a part of the criminal record background check required for licensing. Due to a backlog of work at the Oregon State Police, **fingerprint processing is currently taking 14 days**. The situation should be resolved in a few months. The Agency will provide updates in the *Oregon Real Estate News-Journal* as new information becomes available.

# 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 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 settlement may not, therefore, directly compare in severity/sanction with other cases.

## REVOCATIONS

[Halvorson, John O.](#) (Corona del Mar, CA) Principal Broker 20070135. Final Order on Remand dated April 16, 2019.

## SUSPENSIONS

[Fox, Christopher Robert](#) (Corvallis) Principal Broker 860800102. Final Order on Remand dated April 25, 2019, issuing a one-year suspension..

## REPRIMANDS

[Wrege, Michelle Patricia](#) (West Linn) Property Manager 200010141. Stipulated Order

dated April 16, 2019, issuing a reprimand with education.

## CIVIL PENALTIES

### Expired - Late Renewal

Civil penalties for late renewals are computed using each 30-day period as a single offense. The civil penalty for the first 30-day period can range from \$100-\$500, with each subsequent 30-day period ranging from \$500-\$1,000.

[Warner, Keri L.](#) (Elmira) Broker 201216945. Stipulated Order dated March 26, 2019, issuing a \$100.00 civil penalty. ■

# Agency Sees Staff Change

Sue Davenhill retired on April 30, 2019, after more than six years with the Oregon Real Estate Agency.

Mrs. Davenhill started with the Agency as a Receptionist in 2013. In 2017, she was promoted to Compliance Specialist in the Regulation Division.

In retirement, Mrs. Davenhill plans to travel, read lots of books, and try her hand at raising chickens.

The Agency congratulates Mrs. Davenhill and wishes her well. ■

# Pre-License Educators Must Renew by June 30

Oregon private career schools and community colleges offering broker and property manager pre-license education courses must renew their courses with the Oregon Real Estate Agency by June 30 each year.

Renewal is completed in the Agency's electronic licensing system, eLicense. The contact person for each school was emailed a renewal notice with instructions.

If you are the contact person for a real estate school offering broker or property manager pre-license courses and have not received an email, please contact the Agency as soon as possible. ■

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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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