

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of)
KAREN LYNN KENNEDY) STIPULATED FINAL ORDER

The Oregon Real Estate Agency (Agency) and Karen Lynn Kennedy (Kennedy) do hereby agree and stipulate to the following:

FINDINGS OF FACT
&
CONCLUSIONS OF LAW

1.

1.1 At all times mentioned herein, Kennedy was licensed as a principal broker with Re/Max Ultimate Coastal Properties.

1.2 The Agency received a complaint from Christopher and Korri Rocco (the Roccas) in February 2021, and the Agency opened an investigation in March 2021.

1.3 On March 4, 2020, the Roccas purchased property located at 28600 Brooks Rd, Gold Beach, Oregon (subject property). The sale included two separate lots, Kissing Rock Rd. running between the two. The property was listed by Kennedy.

1.4 In May 2012, Larry Johnson and Louise Van Teal (the sellers) cut a new driveway to Kissing Rock Rd.

1.5 In December 2015, a landslide destroyed portions of Kissing Rock Rd. The damage caused by the landslide impacted access to Kristy Denman’s property at 28695 Kissing Rock Rd.

1.6 In October 2017, Kristy Denman and Louise Van Teal agreed to split the cost of repairing Kissing Rock Rd., and entered into an “Agreement to Reimburse Construction Costs.”

1 1.7 On March 25, 2018, Kennedy emailed Louise Van Teal a copy of the listing
2 agreement and disclosures (which included the Seller's Property Disclosure and Seller's
3 Property Disclosure Statement Attachment Explanation/Additional Information) with
4 instructions to sign the listing agreement and print out and fill out and return the various
5 disclosures.

6 1.8 On March 27, 2018, the sellers listed their property with Kennedy. The private
7 remarks of the listing stated in part, "Road punched in front of Kissing Rock to home also.
8 Was a slide so do not use but feel free to walk down."

9 1.9 Kennedy stated in her complaint response, "While viewing the home and
10 property, I was shown the secondary driveway that could be accessed from Kissing Rock Rd. I
11 was told at that time there was a slide just past the driveway so it was best not to drive up that
12 direction until it was repaired."

13 1.10 Sometime around May 2018, Kennedy worked with the seller's attorney to draft a
14 letter stating in part that the cost of repairing the West facing side of Kissing Rock Rd. would
15 not be passed on to future buyers.

16 1.11 Kennedy updated the listing's private remarks, removing the language
17 referencing the "slide." The updated remarks read, "May come up Kissing Rod Rd or Brooks
18 Rd to property... Kissing Rock is gravel and there is a sharp turn to get into DW- I recommend
19 all wheel or 4 wheel drive."

20 1.12 When asked why she updated the listing remarks, Kennedy said the sellers told
21 her the road was repaired and the property could be accessed by Kissing Rock Rd. The
22 sellers provided no further information surrounding the repair.

23 1.13 Kennedy failed to share her knowledge of the landslide with the parties to the
24 transaction.

25 **(1) Violation:** By failing to disclose her knowledge of the landslide, Kennedy violated ORS
26 696.301(3) as it incorporates ORS 696.805(2)(c) (2019 Edition) which states: (2) a seller's
27 agent owes the seller, other principals and the principals' agents involved in a real estate
28 transaction the following affirmative duties: (c) to disclose material facts known by the seller's
29 agent and not apparent or readily ascertainable to a party.

30 1.14 The sellers marked "Yes," to several questions on the Seller's Property

1 Disclosure relating to right of ways, easements, access limitations, joint maintenance
2 agreements, boundary surveys, and roof condition. Kennedy reviewed the Seller's Property
3 Disclosure and asked for additional information on the questions with a "Yes" answer. She
4 provided the sellers with a blank Seller's Property Disclosure Statement Attachment
5 Explanation/Additional Information sheet; however, the sellers provided no additional
6 information.

7 1.15 The seller's answered "No" to the questions "Is there any material damage to the
8 property or any of the structure(s) from fire, wind, floods, beach movement, earthquake,
9 expansive soils or landslides?" And "Are there any other material defects affecting this
10 property or its value that a prospective buyer should know about." According to Kennedy, the
11 sellers might have thought there was no material damage because they believed the road was
12 repaired.

13 1.16 Kennedy didn't ask for proof that the sellers repaired the road and she did not
14 caution the sellers about the potential harm of failing to disclose the landslide.

15 **(2) Violation:** By failing to communicate to the sellers the potential harm in not disclosing
16 the landslide, Kennedy violated ORS 696.301(3) as it incorporates ORS 696.805(3)(a) (2019
17 Edition), which states: (3) a seller's agent owes the seller involved in a real estate transaction
18 the following affirmative duties: (a) to exercise reasonable care and diligence.

19 1.17 The violations noted above demonstrate conduct that is below the standard of
20 care for the practice of professional real estate activity in Oregon.

21 **(3) Violation:** ORS 696.301(15) (2019 Edition) which states, the Commissioner may
22 sanction the real estate license of any real estate licensee who engages in conduct that is
23 below the standard of care for the practice of professional real estate activity in Oregon as
24 established by the community of individuals engaged in the practice of professional real estate
25 activity in Oregon.

26 2.

27 2.1 The foregoing violations are grounds for discipline pursuant to ORS 696.301.
28 Based on these violations a reprimand is appropriate for violations of ORS 696.301(3) and
29 (15).

30 2.2 The Agency reserves the right to investigate and pursue additional complaints

1 that may be received in the future regarding this licensee.

2 2.3 In establishing the violations alleged above, the Agency may rely on one or more
3 of the definitions contained in ORS 696.010.

4 2.4 According to ORS 696.775, the lapsing, expiration, revocation or suspension of a
5 real estate license, whether by operation of law, order of the Real Estate Commissioner or
6 decision of a court of law, or the inactive status of the license, or voluntary surrender of the
7 license by the real estate licensee does not deprive the Commissioner of jurisdiction to: (1)
8 proceed with an investigation of the licensee; (2) conduct disciplinary proceedings relating to
9 the licensee; (3) Take action against a licensee, including assessment of a civil penalty against
10 the licensee for a violation of ORS 696.020(2); or (4) revise or render null and void an order
11 suspending or revoking a license.

12
13 **STIPULATION & WAIVER**

14 I have read and reviewed the above findings of fact and conclusions of law which have
15 been submitted to me by the Agency and further, the order which follows hereafter. I
16 understand that the findings of fact, conclusions of law and this stipulation and waiver embody
17 the full and complete agreement and stipulation between the Agency and me. I further
18 understand that if I do not agree with this stipulation I have the right to request a hearing on
19 this matter and to be represented by legal counsel at such a hearing. Hearings are conducted
20 in accordance with the procedures set forth in ORS Chapter 183 and in accordance with the
21 Rules of Practice and Procedure adopted by the Attorney General of the State of Oregon. I
22 freely and voluntarily waive my rights to a hearing, to representation by legal counsel at such a
23 hearing, and to judicial review of this matter.

24 I hereby agree and stipulate to the above findings of fact and conclusions of law and
25 understand that the order which follows hereafter may be completed and signed by the Real
26 Estate Commissioner or may be rejected by the Real Estate Commissioner. I understand that,
27 in accordance with the provisions of ORS 696.445(3), notice of this order shall be published in
28 the Oregon Real Estate News Journal.

29 I agree once the Commissioner executes this stipulated order, I will accept service of
30 the final order by email, and hereby waive the right to challenge the validity of service.

ORDER

IT IS HEREBY ORDERED that Karen Lynn Kennedy's license be, and hereby is reprimanded.

IT IS SO STIPULATED:

IT IS SO ORDERED:

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Karen Kennedy
DocuSigned By: Karen Kennedy

DocuSigned by:
Steven Strode
D141D267DDE14A0...



KAREN LYNN KENNEDY

STEVEN STRODE

Real Estate Commissioner

Date 7/15/2021 | 9:34 AM PDT

Date 7/16/2021 | 7:24 AM PDT

Date of Service: 07/16/2021

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