

# Oregon Real Estate News-Journal

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Commissioner  
Gene Bentley

## Property Management: It's All About the Property Owner

*Gene Bentley, Real Estate Commissioner*

The management of rental real estate is part of the definition of professional real estate activity under [ORS 696.010](#). It can be conducted by licensed property managers, principal brokers, and brokers under the supervision of principal brokers.

Many licensees get involved in property management because they like working with tenants and maintaining rental properties. That's great, because it is a key part of the profession.

But the Oregon Real Estate Agency, under the authority of the Oregon Real Estate License Law, is **most concerned with the relationship between the licensee and the property owner.**

- The licensee must be loyal to the owner and act in the best interest of the owner and the owner's investment.
- The licensee must properly account for the owner's funds in the licensee's custody. This includes using the best possible bookkeeping and money handling practices that comply with statute and rule. Clients' trust accounts must be bal-

anced and reconciled monthly. A monthly account statement must be provided to each owner for all funds collected and distributed on behalf of the owner.

- If the licensee has an ownership interest in a business (e.g. carpet cleaning, handyman repair), and uses or plans to use the business to work on the owner's property, it must be disclosed to the owner.
- A licensee who manages residential real estate must have a clear understanding of Oregon Landlord Tenant Law. This allows the licensee to act in the property owner's best interest when working with tenants.

In this issue of the *Oregon Real Estate News-Journal*, you will find a discussion about the affirmative duties a licensee owes to a property owner, the key components of a property management agreement, and the directions for making sure the Agency has the most up-to-date list of clients' trust accounts.

In managing rental real estate, a licensee is entrusted with both the owner's funds and the owner's investment property. Learn what you need to do to maintain that trust, as well as comply with Oregon laws and rules. ■



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## Views from the Board

# **Resources to Reduce Risk Management and Deliver to Clients a Quality Real Estate Transaction**

Joann Hansen, Oregon Real Estate Board



Joann Hansen

“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.

As a principal broker of 32 years and a Realtor of 37 years, I have seen many changes in the real estate industry. I have actively served in my local Realtor association, the Oregon Association of Realtors (OAR) and the National Association of Realtors (NAR). I have also served on numerous committees, mainly Government Affairs and Forms Committees, throughout the years. I have served on the Oregon Real Estate Agency Board for 5 years where I have enjoyed providing professional perspective and insight to both brokers’ professional and training needs and principal brokers’ oversight and duties while recognizing the best possible representation of consumers and their pursuit of the American Dream of home ownership.

Today I share my perspectives on three points: *navigating the changing landscape of today’s technology*, making sure that you and your brokerage are *exercising solid risk management principles*, and utilizing your choice of *professional resources, including realty transactional and advisory forms to guide your real estate transaction*. As

I cover these three points, I present to you that real estate practices and processes per full-time real estate professionals have adapted to changes for the most part. Yet,

there are opportunities for more continuing education and ongoing risk management training. There will always be some brokers and brokerages that could utilize more training, whether continuing education credit is or is not issued at point of learning curve. Oregon’s real estate industry and OAR are navigating today’s marketplace with training and marketing outreach on behalf of over 13,500 members and nearly 6000 non-members (licensees). The outreach benefits us all, from members, non-members, home owners (consumers), and the public alike. OAR is providing both broker resources and benefits to the Realtor member, as well as links that guides consumer understanding in today’s real estate transaction.

**Navigating changing technology is important for any professional in today’s marketplace.** Selecting and maintaining current hardware and software for comput-

ers, laptops, and mobile devices is critical in establishing your brokerage’s or individual real estate practice’s communication, whether franchise, large brokerage, or small one-person office. So many of us need to consult with computer professionals to guide us in our computing needs, as well as to work with an IT department for our

ongoing IT needs throughout the year.

**Exercising solid risk management principles** is critical to operating a profitable real estate brokerage in today’s com-

*“There will always be some brokers and brokerages that could utilize more training, whether continuing education credit is or is not issued . . .”*

petitive marketplace. There is great wisdom in having to be a real estate broker for three years before you can sit for the principal broker license exam and increase your level of duties and responsibilities, including taking listings and managing brokers (e.g. training, monitoring transactions, and business management). At the local Realtor associations, there are Owner/broker forums that address risk management issues on a monthly basis. The exchange is invaluable as peers share information. There are also numerous resources at all three levels of local, state, and national Realtor associations per additional seminars, webinars, e-news, magazines, websites, and state and national meetings. These are value-added member benefits that make broker/owners more profitable. It also help us craft the best possible real estate transactions that professionally represents our clients and advances complete real estate transactions. Whether an Oregon Realtor member or a licensee, a principal broker has significant resources available that can be utilized to exercise sold risk management.

Use professional resources, including realty transactional and advisory forms, to guide your real estate transactions. There are a number of form providers and transactional management software vendors that will provide you real estate tools for your brokerage. I encourage you to review the

providers and vendors to find those that best meet your needs. Look for a company that has a significant library of transactional and advisory forms that are vetted annually. Brokers and subscribers should be able to submit input about the content of the forms so that they can be utilized statewide on any and all real estate transactions. Principal brokers, escrow industry, and lawyers should review the forms for clarity, accuracy and compliance with Oregon

*“At the end of the day, informed, educated, and trained Oregon brokers result in informed, satisfied consumers.”*

administrative rule-making, any and all Oregon legislative mandates, and associated rulemaking set forth under the Oregon Real Estate Agency. A forms vendor with updated training resources is valuable. I personally utilize Oregon Real Estate Forms, LLC for my transactional and advisory forms. The company sells both to licensed Oregon brokers and

attorneys.

At the end of the day, informed, educated, and trained Oregon brokers result in informed, satisfied consumers. As real estate professionals, the public expects that we are knowledgeable, professional, and ethical. They expect that we fully understand Oregon law in accordance to their real estate needs, utilize quality real estate agreements that meet current Oregon law, and fully represent their client needs. All of this results in a quality real estate transaction and the client's house being quickly sold or purchased. ■

## **Oregon Real Estate Board Meeting**

*Monday, June 1, 2015, 10:00 a.m.  
in Salem at the [Oregon Real Estate Agency](#)*

**Visit the [Real Estate Board web page](#)  
for more information.**

# How to Keep Your Clients' Trust Account Inventory Up-to-Date with the Agency

If you have clients' trust accounts, you must notify the Agency each time an account is opened or closed. This must be done in eLicense within 10 business days of an account being opened or closed.

The Agency recommends that you regularly check to make sure that eLicense has the correct information about all your current clients' trust accounts.

Here is how to do it:

1. Log in to your personal [eLicense](#) account.
2. Click "Add/Close Clients' Trust Accounts" from the menu on the left.
3. Click "Start."
4. Review the list of all the clients' trust accounts currently entered in eLicense.
5. **If you need to add an account**, click the "Add" button and enter all the required information in the pop-up box. Continue adding accounts as needed.
6. **If you do not have any accounts to add, or once you have finished adding accounts**, click the "Next" button. This will open the "Close Clients' Trust Account(s)" window.
7. **If you need to remove an account**, click the "Edit" button next to an account that is closed.
8. In the "Edit Clients' Trust Account" box, enter the date the account was closed, then click "OK."
9. This will take you back to the "Close Clients' Trust Account(s)" window. You will still see the account that you wanted to remove, but it will show an inactivation date which indicates that it was closed.
10. **If you do not have any accounts to remove, or once you have finished removing accounts**, click the "Next" button.
11. In the "Client Trust Attestation" window, you will attest that each bank is
12. authorized to provide any requested information about your clients' trust accounts to the Real Estate Commissioner, or the Commissioner's representative, by typing your name in the text box and then clicking "Next."
13. Click "Print Review" at the top right of the box so you can have a printed copy of your actions.
13. Click "Finish" to complete the process.



[Step-by-step instructions with screenshots](#)

*Reminder: If you are managing rental real estate, you must have at least one clients' trust account. If you collect and maintain security deposit, you must have at least two accounts.*

*Reminder: Only a property manager or principal broker can have a clients' trust account.* ■

# Written Policy Required for Property Management When Supervising Others

If you are a property manager or a principal broker, and you supervise other real estate licensees, employees or contractors in the management of rental real estate, then you need a written policy and a written delegation of authority per [OAR 863-025-0015](#).

## What does the written policy need to have?

The policies must specify the duties, responsibilities, supervision and authority of the licensees, employees or contractors that you supervise, including any authority to handle clients' trust account or security deposit funds. It must also include how to produce and maintain all reports, records, and documents that are required by law and rule.

Additionally:

- If you supervise a property manager, you must include any authority the property manager has to negotiate tenant rental and lease agreements.
- If you are a principal broker that supervises a broker or principal broker, you must include any authority the broker or principal broker has to sign property management agreements, and tenant rental and lease agreements.
- If you employ staff, you must include any authority employees have to:
  - Negotiate tenant rental or lease

agreements.

- Check applicant or tenant references, including credit references.
- Physically maintain the real estate of an owner.
- Conduct tenant relations.
- Collect rent and other payments.
- Supervise premise managers.
- Discuss financial matters relating to management of the real estate with owners.

## When do you need a separate, written delegation of authority?

- If you are a principal broker that supervises a broker or principal broker, and you authorize the broker or principal broker to negotiate and sign property management agreements on your behalf.
- If you authorize an individual to review, approve, and accept tenant rental and lease agreements on your behalf per [OAR 863-025-0045\(2\)](#).
- If you authorize an individual to review and approve clients' trust account and security deposit account reconciliations under [OAR 863-025-0025\(23\)](#). (You are still solely responsible for all funds and transactions.)
- If you authorize an individual to receive and disburse trust funds under [OAR 863-025-0025\(23\)](#).

The delegation of authority must specifically state who is authorized to do what. You must sign and date any written delegations of authority and keep them with your written policy.

As with all other records of professional real estate activity, the written policy and written delegation of authority must be available for inspection by the Real Estate Agency. ■



# Required Elements of a Property Management Agreement

If you are principal broker or property manager, you can only manage rental real estate if you have a signed, valid property management agreement with the property owner. It is a written contract that outlines your responsibilities, as well as the owner's responsibilities.

You must make sure that everything listed below is in the property management agreement per [OAR 863-025-0020](#):

- Address or legal description of rental property.
- Your duties and responsibilities as property manager.
- The owner's duties and responsibilities.
- All the authority and powers given to you by the owner.
- The term (duration) of the agreement.
- How the agreement can be terminated.
- The terms and conditions of the agreement.
- All compensation you will receive for managing the rental property, including management fees, application fees, screening fees, rebates, discounts, and overrides.
- When each form of compensation is earned, and when it will be paid.
- A description of the monthly statements of accounting you will provide to the owner.
- How the property management records of the owner's rental real estate will be handled after termination of the agreement.
- Disclosure of the use of your employees, or a business in which you have a financial interest at the time of the execution of the property management agreement, that will provide services for the owner's property.
- A statement that you will disclose to the owner, in writing, your planned use of any employees or a business in which you have a financial interest to provide services for the owner's property, if such use was not disclosed in the prop-

erty management agreement.

- An identifying code. – This code is to be used on all your records associated with this particular property management agreement.
- Your signature, or the signature of a person authorized to sign property management agreements per [OAR 863-025.0020\(6\)](#).
- The owner's signature.
- The date of the agreement.
- The terms of any payment of a referral fee, rent credit or other compensation to a tenant as allowed under [ORS 696.290\(5\)](#).
- Any agreement to place trust funds you receive into an interest-bearing clients' trust account or security deposits account as allowed under [ORS 696.241\(9\)](#), including provisions specifying to whom the interest earnings inure as follows:
  - If the interest earnings inure to the benefit of the owner, when such interest earnings will be disbursed.
  - If the interest earnings inure to your benefit, that such interest will be disbursed to you within ten calendar days from the date of the bank statement on which such interest is first shown as required in [OAR 863-0025-0025\(8\)](#).
- Any specific pass-through charges that will be paid by the owner.

Any changes or additions to the property management agreement must be in writing and include the identifying code, the date of the changes or additions, your signature and the signatures of all owners who signed the initial property management agreement.

A legible copy of the fully executed property management agreement, and any addenda or amendments, must be delivered promptly to the owner. ■

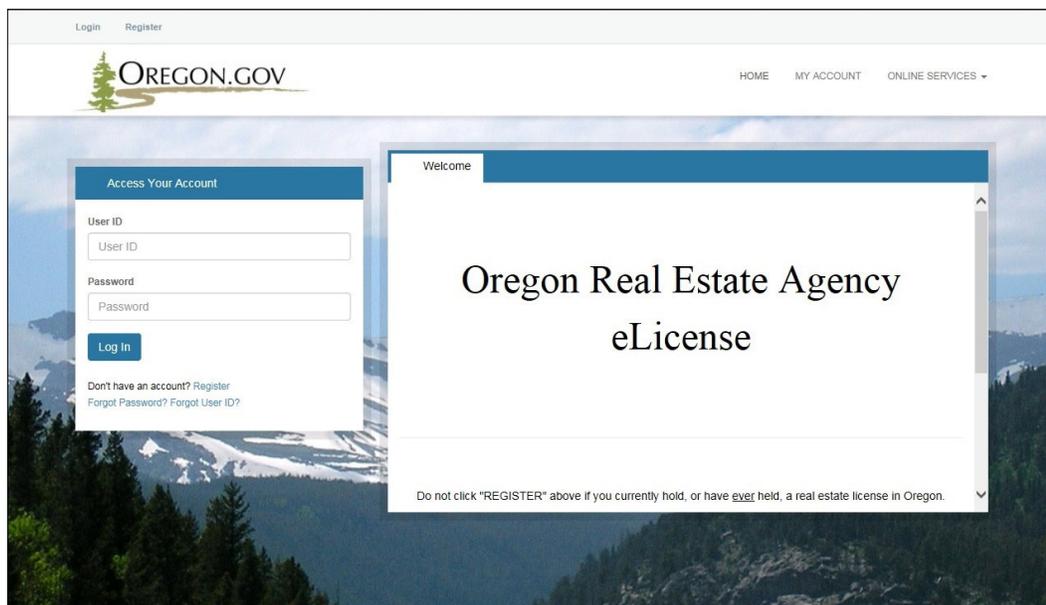
# Duties Owed to Owner When Managing Rental Properties

As a real estate licensee who manages rental real estate, you owe specific affirmative duties to the property owners with whom you have property management agreements. per [ORS 696.890](#). These duties cannot be waived.

You must do following for each property owner:

- Deal honestly and in good faith.
  - Disclose material facts known by the property manager and not apparent or readily ascertainable to the owner.
  - Exercise reasonable care and diligence.
  - Account in a timely manner for all funds received from or on behalf of the owner.
  - Act in a fiduciary manner in all matters relating to trust funds.
- Be loyal to the owner by not taking action that is adverse or detrimental to the owner's interest.
  - Disclose in a timely manner to the owner any existing or contemplated conflict of interest.
  - Advise the owner to seek expert advice on matters that are beyond your expertise.
  - Maintain as confidential all information from or about the owner, except under subpoena or court order, even after the agency relationship ends.

Failure to any of the above could result in disciplinary action against your license. ■



*Screenshot of how the eLicense login page will look.*

## New Look Coming Soon to eLicense

The Oregon Real Estate Agency will be unveiling an up-to-date look and feel to the eLicense online system. The new design will improve usability and provide a better overall experience.

The makeover will not change how you interact with eLicense. All processes that you complete in eLicense will stay the same. The Agency anticipates that the new layout will be implemented in May 2015. ■

# Administrative Actions

December 11, 2014 through March 18, 2015



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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.

Finally, please note that stipulated settlements do not necessarily reflect all the factual violations initially alleged by the Agency, and the sanction(s) may have been adjusted as part of the negotiation process. Such settlements may not, therefore, directly compare in severity/sanction with other cases.

## REVOCATIONS

[Fox, Christopher](#) (Portland) Principal Broker 860800102. Final Order dated February 10, 2015.

[Booren, Heidi](#) (Madras) Principal Broker 200309095. Stipulated Order dated March 9, 2015.

[Rosenberg, Carol](#) (Portland) Broker 971100089. Final Order dated March 16, 2015

## REPRIMANDS

[Bittler, Sandra](#) (Portland) Principal Broker 200308112. Stipulated Order dated February 17, 2015.

[Slavit, Marc](#) (Medford) Broker 200105121. Stipulated Order dated March 18, 2015.

## CIVIL PENALTIES

[Toney, Jana](#) (Central Point) Unlicensed. Stipulated Order dated February 20, 2015, issuing a \$200 Civil Penalty for unlicensed activity. ■