

Oregon Real Estate News-Journal

Official Publication of the Oregon Real Estate Agency

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No. 3

IMPROVING CUSTOMER SERVICE

Gene Bentley, Real Estate Commissioner

The Real Estate Agency continues to work on ways to improve customer service. It will now be easier to visit the Agency, renew a license, and stay informed.

PARKING NOW AVAILABLE

FOR AGENCY VISITORS

Doing business at the Real Estate Agency's office will no longer mean hunting for change between your car seats to feed the City of Salem parking meters.

The parking lot surrounding the Agency's office is owned by the Oregon Department of Administrative Services (DAS). The Agency worked with DAS to provide five parking spaces in front of the Agency's front door for visitors to use while doing business at the Agency. Parking in these designated spaces will be limited to 30 minutes. Visitors whose business with the Agency will take longer than 30 minutes will still need to park at meters on Center Street or in the park-and-pay Yellow Lot two blocks west of the Agency.

A map showing the location of the parking spaces can be found on

the Agency's website at www.rea.state.or.us.

ONLINE RENEWALS

The Real Estate Agency has made renewing a real estate license more convenient. Online renewal allows licensees to renew their licenses from their home or office computers.

No need to buy stamps or write a check. All you need to renew your broker or property manager license is your Social Security number, credit card and real estate license number. For brokers, your continuing education must be completed and certified by your principal broker prior to renewing a license. See "Continuing Education for License Renewal" on page 8 for additional information.

Over 1300 licensees have taken advantage of this new service since it became available late March. To find out more about online license renewals, please visit the website at http://www.rea.state.or.us/REA/online_renewals_frontpage.shtml.

COMMISSIONER'S BULLETIN

Quite often, relevant news cannot wait until the next issue of the



Commissioner Gene Bentley

Oregon Real Estate News-Journal. So the Agency developed a new electronic publication called the *Commissioner's Bulletin*. Produced once a month, the *Bulletin* is available to all licensees and other interested parties via the Agency's website at http://www.rea.state.or.us/REA/EDU/commissioner_bulletin.shtml.

The Agency will continue to look for ways to improve services for licensees and members of the public.

IN THIS ISSUE

Next Deputy Commissioner, Other Changes Announced ...	2	Administrative Actions	6
New Advertising Rules in Effect	3	Smoke Alarm Information Available	6
What is Commingling?	3	Clients' Trust Account Audits	7
Tips for Quicker Processing of License Transactions	3	Agency to Discontinue Questions & Answers Book	7
Advanced Practices Course Required	4	Continuing Education Requirements	8
2007 Summary of Legislation	5	2007 Real Estate Board Meeting Dates, Locations	8

NEXT DEPUTY COMMISSIONER, OTHER AGENCY STAFF CHANGES ANNOUNCED

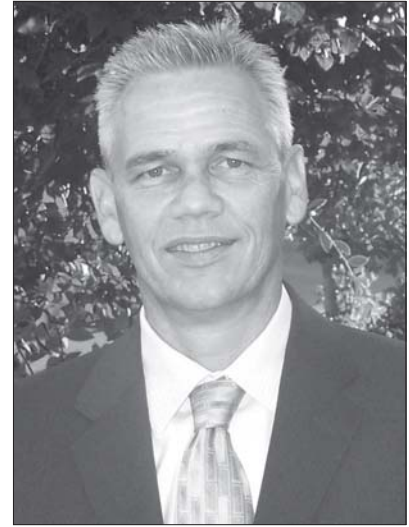
Real Estate Commissioner Gene Bentley announced that **Dean Owens** will be the next Deputy Commissioner of the Real Estate Agency. Mr. Owens started with the Agency in 2006 as Administrative Services Manager. He was responsible for the Agency's administrative and information technology services. His 23 years in state government have provided him a depth of knowledge and experience that will be extremely helpful in moving the Agency forward.

Mr. Owens will replace **Katie Cannon**, who will retire in November after 18 years of state service. Highlights of her two years with

the Agency include increased participation by the industry, improved customer service standards, and implementation of online license renewals. She credits these achievements to the work of the Agency's staff as a whole. "In my mind, this agency will be a model for other state agencies to follow in the years to come," said Ms. Cannon. Although married for many years, Ms Cannon is planning to travel with her husband to Alaska and Mexico on what her young granddaughter calls a "retirement honeymoon."

Laurie Hall was hired to fill the new position of License Compliance Specialist. She previously worked for the Agency on a job rotation from the Employment Department before accepting this position. While on job rotation, Ms Hall assisted in the successful roll out of the online license renewal system.

Dustin Ball has left the Agency to accept a position with the Public



Dean Owens

Utility Commission.

The Agency congratulates Mr. Owens, welcomes Ms. Hall, and wishes Ms. Cannon and Mr. Ball well.

Editor's Note: See the Agency's website at www.rea.state.or.us for available employment opportunities.

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OREGON REAL ESTATE AGENCY
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The *Oregon Real Estate News-Journal* is published four times a year 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. \$4.00/biennium subscription fee included in real estate license fee. All other subscriptions \$2.00 per year. POSTMASTER: Send address changes to *Oregon Real Estate News-Journal*, 1177 Center St. N.E., Salem, OR 97301-2505.

Mesheal Heyman, Editor

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In Memoriam

Linda Zitzelberger, a former employee of the Real Estate Agency, died July 30, 2007 after a courageous battle with cancer.

Ms Zitzelberger started working for the Agency in 1972. She held several positions with the Agency, the last being Regulation Support Specialist for the Regulation Division. She retired from the Agency in 2003. She is remembered by Agency staff for her sense of humor and good nature.

During retirement she cared for her garden, went camping, and spent time with her family, including her husband Duane Reece.

The Agency extends its sympathy to the family and friends of Ms. Zitzelberger.

NEW ADVERTISING RULES IN EFFECT

The administrative rule regarding advertising by real estate licensees was revised. The new language went into effect June 29, 2007.

The Real Estate Agency called together a work group made up of real estate licensees and Agency staff to review Oregon Administrative Rule (OAR) 863-015-0125. The work group agreed on the following changes:

DELEGATION OF PRINCIPAL BROKER'S AUTHORITY FOR ADVERTISING

Principal brokers are responsible for the advertising of their associated

licensees. The supervision of advertising originating in a branch office may be delegated to a principal broker who manages that office. Therefore, a licensee who is not a principal broker cannot be given the authority for advertising. The delegation of authority must be in written company policy.

ADVERTISING OF LICENSEES' RENTAL PROPERTIES

A licensee associated with a principal broker who advertises their own property for rent or lease must state in the advertising that they have a license when:

- the property has more than

- four residential units, or
- it is commercial property.

TYPE SIZE OF NAMES IN ADVERTISING

Effective March 1, 2008. If an associated licensee uses his or her name in advertising, the licensed name or registered business name of the licensee's principal broker must be in the same-sized type or larger than the associated licensee's name.

For additional information, visit the Agency's website at www.rea.state.or.us and click on "Permanent Advertising Rules 6-29-07" under Topics of Interest.

TIPS FOR QUICKER PROCESSING OF LICENSE TRANSACTIONS

What is the secret to have a license issued (or renewed, transferred, changed) quickly? It is simple:

- use the proper form or forms,
- make sure the form is complete, including all necessary signatures,
- include any required documents, and
- ensure proper payment is enclosed (if paying by check it must be for the correct amount, signed and made payable to the Real Estate Agency).

Sending all documents, forms and payment in one package will also help expedite your transaction.

Please remember that background checks, if needed, can take two to three months.

Please help us to better serve you by following the above steps. If you have any questions, call the Licensing Section at (503) 378-4170, selection 0.

WHAT IS COMMINGLING?

The dictionary defines it as blending or causing to blend together. But do you actually know what "commingling" is? Have you considered its effects on your business?

The Oregon Legislature wrote that no licensee shall keep funds designated as clients' trust funds except actual trust funds, and that escrow funds shall be "kept separate, distinct, and apart from funds belonging to the escrow agent." [Oregon Revised Statutes (ORS) 696.241(8) and (9), and ORS 696.578]

The Oregon Real Estate Agency wrote in administrative rules that a principal broker or a sole practitioner broker shall not commingle clients' trust account funds with the personal funds of the broker. [Oregon Administrative Rules (OAR) 863-015-0255(6)] Funds held in a clients' trust account for property management agreements

may only be money received as security deposits, or on behalf of a property owner. [OAR 863-0025(2) and (5)]. Only funds received by an escrow agent as part of an escrow transaction or trustee of a trust deed may be placed in an escrow or trust account. [OAR 863-050-0055(3)]

All of this effort is to safeguard the public, so that clients' trust account funds are not subject to execution or attachment on any claim against a sole practitioner, principal real estate broker or property manager. [ORS 696.241(8)] If your personal funds are mixed with clients' trust funds, you are violating the law, risking your clients' money, and endangering your license.

To review the applicable statutes and rules, please visit the Agency's website at <http://www.rea.state.or.us> and select "Statutes and Rules" from the left-hand menu.



ADVANCED PRACTICES COURSE REQUIRED FOR NEW, RELICENSED BROKERS

If you are a new Oregon broker, you must take the 30-hour Advanced Real Estate Practices (AP) course before your first active license renewal. You must complete the Real Estate Agency-approved AP course if you:

- received your very first Oregon real estate broker license on or after July 1, 2002; or
- let a previous Oregon license expire (or otherwise lapse) and obtained a new broker license on or after July 1, 2002.

Completion of the course is required by OAR 863-015-0055(4). Principal brokers, sole practitioner brokers and property managers are not required to take the AP course.

The AP course is a specific 30-hour course that must be completed before your first active license renewal. Your first license is valid from the date of issue for one year and then on to the last day of the month of your birthday. This means your first renewal date may be less than 13 months after obtaining your license. For example, if your first license was issued in May 2007, and your birthday is in June, your license would renew June 30, 2008.

If your license is inactive at the time of renewal, you do not need to take the AP course until you reactivate your license.

Although the AP course requirement is separate from continuing education requirements, a principal broker may let affiliated brokers use the AP course to meet the continuing education requirements for license renewal.

If you do not know if you need to take the AP course, please con-

tact the Agency at (503) 378-4170.

When affiliated brokers complete the AP course, the course certificate must be given to their principal broker. The principal broker signs the Renewal Continuing Education Certi-

fication Signature Card indicating that the course has been completed. The principal broker then keeps the certificate and Signature Card for six years as required by ORS 696.280(2) and (3), and OAR 863-015-0055(2)(c).

A list of approved providers for the AP course can be found in the document called "Approved Pre-License and Post-License Real Estate Education", which can be obtained by visiting the Agency's website at www.rea.state.or.us.



**REQUIRED
COURSE FOR
NEW
LICENSEES**

ACTIVE BROKER LICENSEES, you need to take the AP course to renew your license if:

- the license is being renewed for the very first time.
- you had an Oregon real estate license, but let it expire or otherwise lapse. You have now re-licensed as a broker by meeting the current licensing requirements. Your first license renewal since re-licensing is now coming up.

INACTIVE BROKER LICENSEES, you need to take the AP course to activate your license if:

- you obtained your very first broker license after June 30, 2002, but it has been inactive the entire time. You have renewed your inactive license at least once, and now you wish to activate it.
- you had an Oregon real estate license, but let it expire or otherwise lapse. You became re-licensed as a broker after June 30, 2002 by meeting the current licensing requirements, but have had an inactive license since then. You have renewed your inactive license at least once, and now wish to activate it.

You do not need the AP course if:

- you are a principal broker
- you are a sole practitioner broker
- you are a property manager
- your license is currently inactive (but you may need it to activate your license. See above.).

Call the Agency if:

- you have a reciprocal broker license.

2007 SUMMARY OF LEGISLATION

The Oregon Legislative Assembly enacted a variety of measures affecting the Real Estate Agency and the licensees it regulates. The highlights follow:

BILLS THAT IMPACT AGENCY

Senate Bill 166 - Relating to clients' trust accounts maintained by real estate brokers

SB 166 directs Real Estate Agency to establish optional procedure for specified real estate licensees to disburse from client trust accounts disputed funds held in relation to sale, exchange or purchase of real estate. Governor signed 5/31/07. Effective 1/1/08.

Senate Bill 167A - Relating to real estate activity

SB 167A clarifies the authority of the Real Estate Agency to issue real estate licenses only to individuals. Defines "nonlicensed individual" to distinguish who may conduct professional real estate activity or engage in management of rental real estate. Conforms language to more effectively use defined terms. Governor signed 6/11/07. Effective 6/11/07.

Senate Bill 168 - Relating to escrow agent licenses

SB 168 authorizes the Real Estate Commissioner to allow late renewal of expired escrow agent licenses. Governor signed 5/31/07. Effective 1/1/08.

Senate Bill 482A - Relating to real estate broker compensation

SB 482A modifies form requiring escrow agent to hold compensation due real estate broker. Defines "compensation" for purposes of statute relating to escrow agents. Makes conforming changes. Governor signed 6/11/07. Effective 1/1/08.

Senate Bill 5539A - Relating to financial administration of the Real Estate Agency

SB 5539A Governor signed 6/25/07. Effective 6/25/07.

House Bill 2243B - Relating to agencies

HB 2243B removes discretion of applicant for renewal of license to choose between normal license term and extended term offered by the agency. Modifies expiration date for certain licenses, permits and certificates to allow agency to establish different expiration date by rule. Allows agency, without prior notice or hearing, to amend rules to change name of office, program or division or to correct address and telephone numbers referred to in rules. Governor signed 7/16/07.

House Bill 2252B - Relating to criminal records checks

HB 2252B authorizes specified agencies to require fingerprinting of certain persons for purpose of criminal records checks. Governor signed 6/26/07. Effective 6/26/07.

House Bill 2490A - Relating to escrow agents

HB 2490A allows escrow agents to disburse deposited earnest money based on agreement of parties that is executed after initial sales agreement. Prohibits escrow agents from imposing additional requirements on principals to transaction. Governor signed 6/1/07. Effective 1/1/08.

OTHER BILLS OF INTEREST

Senate Bill 543A - Relating to property governed by declarations

SB 543A requires homeowners association and association of condominium unit owners to deposit assessments in federally insured bank account. Removes requirement that bank account be located

within state. Governor signed 6/11/07. Effective 6/11/07.

Senate Bill 561A - Relating to landlord-tenant law

SB 561A allows tenant to cause repair of minor defect in dwelling unit if landlord fails to timely repair defect after tenant gives proper notice. Governor signed 6/20/07. Effective 1/1/08.

House Bill 2365 - Relating to tenancies in real property

HB 2365 conforms language to modern form and style requirements. Clarifies that existing language abolishing joint tenancy is limited and applicable only to tenancies in real property. Governor signed 4/17/07. Effective 1/1/08.

House Bill 2498B - Relating to construction on existing structures

HB 2498B extends exemption from Construction Contractors Board licensing to owner who contracts with one or more licensed contractors to perform work on not more than four residential structures of owner within same calendar year. Specifies that exemption does not apply to owner contracted for work that requires building permit unless work requiring permit is performed by, or under direction of, general contractor. Governor signed 6/26/07. Effective 1/1/08.

House Bill 2665B - Relating to properties governed by declarations

HB 2665B revises provisions governing condominiums and planned communities. Governor signed 6/13/07. Effective 90 days following Sine Die.

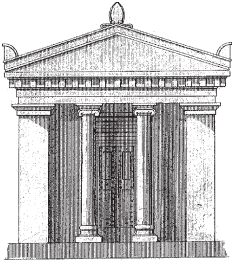
House Bill 2666B - Relating to properties governed by declarations

HB 2666B revises provisions governing condominiums and planned communities. Governor

2007 LEGISLATION: continued on page 6

ADMINISTRATIVE ACTIONS

May 1, 2007 through July 31, 2007



The Agency is required by Oregon Real Estate License Law to publish disciplinary actions. A list of those actions, a brief description of the situation, and the grounds for the

Commissioner's action follows. Please note, there are individuals with real estate licenses that may have similar or the same names as those listed herein, or even work in the same market area. If you are in doubt if an individual listed here is someone you know or with whom you are dealing, 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.

Elliot Yehia's broker license is on active status as of April 9, 2007.

REVOCATIONS

Bellemare, Gina Marlene (McMinnville) Broker #200312076 Stipulated order dated June 6, 2007, effective June 6, 2007. Sellers complained that Bellemare forged their initials on real estate transaction documents. Bellemare forged the sellers' initials and signatures on transaction documents in the sale of their personal residence.

Violation: ORS 696.301(14)

REPRIMANDS

Boyd (Broom), Heather Ann (Forest Grove) Broker #200408070 Stipulated order dated June 5, 2007. The Agency received a complaint from the Department of Justice regarding allegations that were filed involving Broom and others. Broom was involved with a partner and doing business as The Northwest Fore-

closure Group (TNWFG). Broom represented both seller and buyer (TNWFG) in a transaction. Broom did not disclose that she was an owner of TNWFG. There were various documents in the transaction with date irregularities, which Broom could not explain.

Violations: ORS 696.815(2)(a) and 696.805(3)(c) (2003 Edition)

Cooper, Ed "Coop" (Medford) Broker #910300229

Stipulated order dated July 2, 2007. Cooper performed a competitive market analysis for an individual who had an active listing with another broker.

Violation: ORS 696.301(7)

CIVIL PENALTIES

Expired - OAR 863-015-0050(2) - 31-60 days - \$100:

Godfrey, Dennis Alan (Medford) Broker #200304225

Lamont, Brad W. (Grants Pass) Broker #200112064

Stine, Jonathan M. (Grants Pass) Broker #200301010

Expired - OAR 863-015-0050(2) - 121-150 days - \$1,600

Shetler, Jennifer D. (Oak Grove) Broker #860500108

Expired - OAR 863-015-0050(2) - 181-210 days - \$2,600

Keele, John Wesley (Hillsboro) Broker #200404370

Unlicensed - ORS 696.020 - The amount of civil penalty depends on the amount of professional real estate activity conducted:

Kirtz, Anthony (Medford) \$500

Koeller, Chad Kurtis (Bend) \$500

Visage, Dale & Diana (Medford) \$500

2007 LEGISLATION. . . . continued from page 5 signed 6/13/07. Effective 90 days following Sine Die.

House Bill 3186B - Relating to conversion condominiums

HB 3186B expands required contents for notice of condominium conversion. Governor signed 6/28/07.

House Bill 3485C - Relating to affordable housing covenants

HB 3485C authorizes creation of affordable housing covenant restricting price, rental rate or occupancy to ensure adequate supply of rental and owner occupied affordable housing for low or moderate income households. Governor signed 6/27/07. Effective 1/1/08.

SMOKE ALARM INFORMATION AVAILABLE

The Oregon Office of State Fire Marshal has information about smoke alarms licensees can print to share with homebuyers and home sellers. The brochure explains the smoke alarm requirements that must be met when any dwelling or structure containing a dwelling is sold, as well as in tenant-occupied dwellings.

The State Fire Marshal's web site is <http://legov.oregon.gov/OSP/SFM/>. Once at the site, select "How Do I Find . . ." from the far left-hand menu Then scroll down to click "Smoke Alarm Information for Realtors." The information is printable using Adobe Acrobat Reader.

If you have questions about smoke alarms, call your local fire department or the Oregon Office of State Fire Marshal at (503) 378-3473.



CLIENTS' TRUST ACCOUNT AUDITS

Since October 2003, the Real Estate Agency has administered a quarterly mail-in audit program for broker and property manager's clients' trust accounts. Accounts to be audited are randomly selected by computer from the account information filed by licensees. If you are a principal broker, sole practitioner broker or property manager and you maintain a clients' trust account, you might receive an audit letter from the Agency in the near future requesting account records.

Some of the requirements the Agency reviews during its audit of the records follow.

One of your key responsibilities is completing monthly reconciliations. The reconciliation compares the ending monthly balances of the bank statement, the check register and the total of the individual ledgers. The trust account is reconciled when the balances of each of these three reports, or "legs," are the same.

Oregon license law requires that clients' trust accounts (a) be held in the licensed or registered business name, (b) be labeled as a "Clients' Trust Account" and (c) be maintained in an Oregon bank.

Licensees are required to submit to the Agency an "Inventory of and Authorization to Examine Clients' Trust Accounts" form. This inventory list should provide the Agency the account numbers and branch location of all current accounts.

Clients' Trust Accounts used for property management must be labeled "Clients' Trust Account – Property Management." And, if the account is being used for maintaining tenant security deposits, it must be labeled "Clients' Trust Account – Property Management – Security Deposits."

The Agency's audit letter requests records showing evidence of the monthly reconciliation of a par-

ticular trust account, including a copy of the monthly bank statement, a listing of the ledger bal-



ances as of the date of the ending balance of the bank statement and a copy of the check register for the same month. The balances of these three items should be equal. You will also be asked to provide the Agency with a current list of your Clients' Trust Accounts. Remember, to be in compliance, the ac-

count must reconcile and all accounts must be labeled properly.

To assist in the process, the Agency has created a sample Trust Account Reconciliation form. The form and other Agency forms are available for download from the Agency's website at www.rea.state.or.us, by clicking on

"Forms and Brochures" from the menu on the far left. You may also view the pertinent Oregon Revised Statutes [ORS 696.241, 696.243, 696.245] and Oregon Administrative Rules [OAR 863-015-0255, OAR 863-015-0275, and OAR 863-025-0025 through -0070] on the website by clicking on "Statutes and Rules" from the same menu. If you have any questions regarding the reconciliation process or other clients' trust account requirements, please contact the Regulation Division at (503) 378-4170, Ext 258.

AGENCY TO DISCONTINUE QUESTIONS & ANSWERS BOOK

The Real Estate Agency will stop selling the 2003 publication *Questions and Answers in Real Estate, Ninth Edition*. Orders will be filled from the remaining inventory until December 31, 2007, or until supplies are sold out.

The 2003 edition is no longer current and there are no plans to update the book. The ninth edition contains a portion of questions from the 2003 exam question database. Since then, many of the questions in the database have been changed to reflect the current laws and rules. The Oregon Real Estate Board and Agency staff recently completed a test question review that made a number of additional changes.

The Agency is currently in the process of reviewing all of its administrative rules. It is expected that the review will result in even more changes to the questions in the database.

The Agency reserves the right to limit the number of books an individuals or company can order.

CONTINUING EDUCATION REQUIREMENTS

Thirty hours of continuing education are required to renew a real estate license in Oregon. Principal brokers approve education for themselves and their affiliated licensees. Sole practitioner brokers and property managers approve their own education. **The Oregon Real Estate Agency does not approve continuing education.** Therefore, the Agency does not maintain a list of course providers.

Licensees who approve education decide whether a course is in required or elective topics. OAR 863-015-0055 requires that at least 15 hours of continuing education taken by a licensee must be taken within the required topics (see

below). The rest of the hours can be either required or elective.

Continuing education taken out-of-state may be approved if the content applies to Oregon. Online or distance education classes may also be approved.

A principal broker may let affiliated brokers use the Advanced Real Estate Practices course (See "Courses Required for New and Relicensed Brokers," page 4) for continuing education.

See the Agency's website at www.rea.state.or.us for more information, or call the Education Section at (503) 378-4170, extension 251.

Required Topics:

- Trust Accounts
- Misrepresentation
- Anti-Trust
- Rule and Law Update
- Property Management
- Commercial Brokerage and Leasing
- Real Estate Taxation
- Agency
- Fair Housing
- Contracts
- Evaluation of Property
- Brokerage Management
- Land
- Business Ethics

2007 REAL ESTATE BOARD MEETING DATES, LOCATIONS

- | | | |
|---|-------------------|---------|
| ■ | October 15, 2007 | Medford |
| ■ | December 17, 2007 | Salem |

All Board meetings scheduled for Salem are held at 10 AM at the Oregon Real Estate Agency office, 1177 Center St. N.E. Call (503) 378-4170, extension 260, or visit www.rea.state.or.us, for additional information on Board activities.

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