



Oregon

Kate Brown, Governor

**AGENDA ITEM NO.
I.C.**

Real Estate Agency

530 Center St. NE, Suite 100

Salem, Oregon 97301-2505

Phone: (503) 378-4170

Regulations Fax: (503) 373-7153

Admin. Fax: (503) 378-2491

www.oregon.gov/rea

Notice of Agenda

OREGON REAL ESTATE BOARD

Regular Meeting Agenda
Best Western Plus Hood River Inn
1108 E. Marina Way
Hood River, Oregon 97031

Monday, August 5, 2019

NOTE: The Board plans to meet from 10 a.m. until 1:30 p.m., including a “working lunch” period.

I. BOARD BUSINESS – Chair Farley

- A. Call to Order
- B. Chair Farley comments / Roll Call
- C. Approval of Agenda and Order of Business
- D. Approval of 6.3.19 regular meeting minutes
- E. Date of next meeting: 10.7.19, Astoria, OR, venue TBD, at 10 a.m.

II. PUBLIC COMMENT – Chair Farley

- This time is set aside for persons wishing to address the Board on matters not on the agenda. Speakers will be limited to five minutes.
- The Board Chair reserves the right to further limit or exclude repetitious or irrelevant presentations. If written material is included, 12 copies of all information to be distributed to board members should be given to the Board Liaison prior to the meeting.
- Action will not be taken at this meeting on citizen comments. The Board, however, after hearing from interested citizens, may place items on a future agenda so proper notice may be given to all interested parties.
- If no one wishes to comment, the next scheduled agenda item will be considered.

III. REQUESTS FOR WAIVERS – Chair Farley None

IV. PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER – Chair Farley None

V. NEW BUSINESS – Chair Farley

- A. LARRC Subcommittee update
 1. Commissioner Strode
 2. Subcommittee report on 8.4.19 meeting

VI. REPORTS – Chair Farley

- A. Commissioner Strode
- B. Agency Division Reports
 1. Selina Barnes
 - a. Regulations Update
 - b. Legislative Update
 2. Anna Higley
 - a. Administrative Services Update
 - b. Land Development Update
 3. Madeline Alvarado - Licensing and Education Update

VII. ANNOUNCEMENTS – Chair Farley

- A. Next Board meeting: 10.7.19 in Astoria, OR, venue TBD, at 10 a.m.

VIII. ADJOURNMENT – Chair Farley

Interpreter services or auxiliary aids for persons with disabilities are available upon advanced request.



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**AGENDA ITEM NO.
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OREGON REAL ESTATE BOARD

Regular Meeting Minutes

Oregon Real Estate Agency
530 Center St. NE Suite 100
Salem, Oregon 97301
Monday, June 3, 2019

BOARD MEMBERS PRESENT: Jef Farley, Chair

Debra Gisiel
Susan Glen
Jose Gonzalez
Dave Hamilton
Lawnae Hunter
Dave Koch
Pat Ihnat
Alex MacLean

OREA STAFF PRESENT:

Steve Strode, Commissioner
Selina Barnes, Regulations Division Manager
Maddy Alvarado, Customer Service Manager
Michael Hanifan, Land Development Manager
Mesheal Heyman, Communication Coordinator

GUESTS PRESENT:

Barbara Geyer, Barbara Geyer Real Estate
Ruth Howard, RE/MAX Equity Group
Jonathon Keith, PLUS Property Management
Stacey Krys-Harrison, A1 Superior Schools
Kayla Lowery, Oregon Association of Realtors
Lane Mueller, Wise Move Real Estate
Jenny Pakula, Oregon Association of Realtors
Laurie Thiel, RE/MAX Equity Group

I. BOARD BUSINESS – Chair Farley

- A. Call to Order. Chair Farley called the meeting to order at 10 a.m.
- B. Chair Farley comments / Roll Call.
 1. Chair Farley explained the role and function of the Board.
 2. Chair Farley asked the Board and members of audience to introduce themselves.
 3. Chari Farley asked the Board liaison to take roll call.
- C. Approval of Agenda and Order of Business

MOTION TO APPROVE AGENDA AND ORDER OF BUSINESS BY DEBRA GISRIEL

SECONDED BY JOSE GONZALEZ

MOTION CARRIED BY UNANIMOUS VOTE

- D. Approval of 6.3.19 regular meeting minutes

MOTION TO APPROVE 6.3.19 REGULAR MEETING MINUTES WITH AMENDMENT TO ADD STEVE STRODE AS PRESENT AT THE MEETING. BY DEBRA GISRIEL

SECONDED BY DAVE HAMILTON

MOTION CARRIED BY UNANIMOUS VOTE

- E. Date of next meeting: 10.7.19, Astoria, OR, venue TBD, at 10 a.m.

II. PUBLIC COMMENT – Chair Farley None

III. REQUESTS FOR WAIVERS – Chair Farley

- A. Ruth Howard requested a waiver of experience to become a principal broker. Howard appeared in person. Howard explained the basis for her request. Worked in real estate as a secretary for an office in 1980. Over the years she owned a small business and leased homes for a retirement community. She then got her real estate license. She was asked by the outgoing principal broker and the president of her current company to become the principal broker despite not having the required experience. Dave Koch asked if Laurie Thiel had comments. Thiel spoke on Howard's behalf. Koch recused himself from the vote, but recommended approval of the request. Pat Ihnat commented that Koch is usually is the one that questions experience waiver requests, and that Koch's support is uncharacteristic. Howard explained how her leasing experience helped her in professional real estate. Lawnae commented favorable on Howard's background. Ihnat asked how many are in the office now. Howard responded 20. Lawnae asked about trust accounting experience. Debra Gisriel asked if there is another principal broker in the office who can step in. Thiel stated that there are licensees that who could meet the requirements but no one with the desire or skills to manage. Gisriel suggested that Howard take the Principal Broker Advanced Practices course and the Principal Broker Academy right away. Dave Hamilton asked question about transaction issues. Alex MacLean inquired about timeline for Bill (current PB in the office) to mentor, number of deals occurring in office and experience of brokers in office. MacLean also asked how many RE/MAX offices are in Portland, where are management meetings held, if other RE/MAX management is available to her as a resource, and what her plans are for growing office. Koch commented on history of office. MacLean confirmed Bill is retiring from management of office, not from real estate business, and asked about Dave Koch's relationship with the office and RE/MAX. Ihnat commented when Howard obtains a principal broker license, she could leave RE/MAX and open her own office. Jef Farley commented on the shortcomings of the law requiring only three years of active licensed experience to obtain a principal broker license.

MOTION TO APPROVE RUTH HOWARD'S REQUEST FOR WAIVER OF EXPERIENCE BY PAT IHNAT. SECONDED BY DEBRA GISRIEL.

Dave Hamilton commented he considers Dave Koch's recommendation. Lawnae agreed. Pat said leasing experience similar. Susan commented on past leasing experience and number of transactions completed.

MOTION CARRIED BY UNANIMOUS VOTE.

IV. PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER – Chair Farley

- A. Ashley Stefan appeared by phone for Old Republic Exchange Company. Pat Ihnat commented on Old Republic Title Company being a sister company in Portland Metro area. Dave Koch asked since it is an exchange company would classes be exchange-related. Ihnat asked who the instructor is, if they are and employee of the exchange company, and if classes would be live. Susan Glen asked about other classes and if they would offer classes besides 1031 exchange courses.

MOTION TO APROVE OLD REPUBLIC EXCHANGE COMPANY'S PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER BY DAVE KOCH.

SECOND BY LAWNAE HUNTER.

MOTION CARRIED BY UNANIMOUS VOTE.

Debra Gisriel asked question about criteria for approval. Jef Farley responded it changes depending on board members, explained history and considerations. Gisriel commented historically seem market driven. Pat Ihnat said if course quality is poor, brokers will say so. Lawnae Hunter said she wrestled with this also. Agrees with Ihnat that it is self regulating. Steve Strode commented we approve providers, not instructors. Will convene continuing education workgroup later this year. Hunter said wants to be on workgroup and commented on other states requirements. Commented on requirement to be timed online for CE. Strode said good conversations to have at workgroup. Jose Gonzalez commented if someone calls his office to teach, can tell right away if it is for marketing. Asked to keep in mind availability for small offices .Dave Koch said he inquires whether applicants understand record keeping requirements and if instructor is qualified. Ihnat said live instruction is so much better.

V. NEW BUSINESS – Chair Farley. None

VI. REPORTS – Chair Farley

- A. Commissioner Strode

1. Proposed Revamp of Board Meetings. Steve Strode discussed report in board packet. Asked for thoughts. Alex MacLean pointed out that public comment is limited, which doesn't take into consideration the Q & A that follows Board meetings. MacLean commented there is a different

interaction when in person rather than on video screen. Dave Hamilton commented have a larger crowd when meetings are out on the road, and interaction of Board members if meeting in person. Lawnae Hunter is ambivalent; she uses Zoom for another board, which she found more interactive than she expected. Hunter suggested perhaps a hybrid solution. Dave Koch commented on effectiveness of CE in person vs online, but for workgroups it could be effective. Koch thinks Board meetings with travel is very beneficial for Board members and the people that attend, and points out this is licensee's dollars. Strode commented that Agency hasn't been forced to do this, if Board meetings are online it could replace human contact with something else. Strode suggested a hybrid option – perhaps meet in person once a year. Hunter suggested start trying by using for committee meetings. Maddy Alvarado explained possible meeting product (Adobe Connect). Koch says that report was well prepared. Koch said during in-person meetings he is very willing to speak up during discussions, but at an online meeting he would not be as inclined to talk as much. Jose Gonzalez said it would be hard to be on statewide board without going out to hear from other communities. Susan Glen said as new member it would have been slower to learn if online, more difficult by conference call. Strode said that Board meetings would be potentially replaced with town hall-type meetings. Hunter thinks town hall meetings are important. Debra Gisriel spends most of day in virtual environment, feels the need to have balance with personal interaction. Gisriel would support a combination of virtual and in person. Hunter doesn't want to give up personal connection, but likes the convenience of online. Strode speculated that the Board could have monthly meetings online, so that waiver applicants don't have to wait, then hold in person meetings less frequently. Pat Ihnat said that hybrid approach may give applicants choice of virtual or in person. Jef Farley commented rural areas have better attendance at board meetings. Strode said he is putting together a one-hour class called "Getting to Know Real Estate Agency." Hunter said in-person meetings are best during better weather months. Gisriel made distinction between Agency and OAR. Strode said the Agency will run numbers on a hybrid approach. Dave Hamilton said he'd take a look at, but still want to have some board meetings around the state. Ihnat pointed out that after away board meetings they get Selina's course. Strode will follow up at next meeting with a hybrid approach proposal.

2. Correspondence from Mr. Baker. Dave Koch stated that concepts of dual agency are not addressed well in education. Some states replace dual agency with transactional broker.

B. Agency Division Reports

1. Regulations Division - Selina Barnes.
 - a) Administrative Actions are now a part of the Regulations Division Report.
 - b) Sue Davenport has retired.
2. Land Development Division – Michael Hanifin
 - a) Running 210% of average volume of filings.
 - b) Provided legislative update.
3. Education, Licensing, and Administrative Services Division - Madeline Alvarado
 - a) Agency office construction update.
 - b) Clarified that correspondence courses are not allowed for continuing education.
 - c) Passed on a suggestion to include Fair Housing as an optional topic for LARRC.
 - d) Escrow financials were due on May 31. 55 of 62 sent them in.
 - e) Registered Business Name renewals – Licensing staff is still calling to remind businesses at the end of the month.
 - f) Clients' trust account reviews – Pulled 150 accounts to review in February. 30% found to be compliant upon initial review. 23% were missing documentation upon initial review/submission. 17% have commingled funds – most all were licensee funds used to open or keep an account open when the licensee does not have owners' funds. 13% found to have the accounts named improperly.
 - g) The broker pre-license course for the CE Shop will be approved upon notification from the Higher Education Coordinating Commission that it is licensed as a Private Career School.
 - h) Average phone call hold times are 24 seconds.
 - i) Addressing a question about background check clearance times, Oregon State Police is currently transitioning to a new system that has created a longer than normal clearance time: 14 business days vs. 3 business days last year.

VII. ANNOUNCEMENTS – Chair Farley

A. Next Board meeting: 8.5.19 in Hood River, OR, venue TBD, at 10 a.m.

VIII. ADJOURNMENT – Chair Farley

Respectfully Submitted,

STEVE STRODE, COMMISSIONER

JEF FARLEY, BOARD CHAIR

DRAFT

REAL ESTATE BOARD
REGULATION DIVISION REPORT
August 5, 2019

Deputy Commissioner: Selina Barnes
Compliance Specialists 3 (Compliance Coordinator): Deanna Hewitt, Rob Pierce
Financial Investigators (Investigator-Auditor): Jeremy Brooks, Aaron Grimes,
 Liz Hayes, Meghan Lewis, Lisa Montellano, Lindsey Nunes, 2 Vacancies
Compliance Specialist 2: Carolyn Kalb
Compliance Specialists 1: Denise Lewis, Vacant
Administrative Specialist: Vacant

Division Overview

The Regulation Division receives complaints and determines validity and assignment for investigation. Investigators gather facts (from interviews and documents), prepare a detailed written report and submit to the Manager for review. The Manager determines whether the evidence supports charging a person with a violation of Agency statutes or administrative rules, as well the appropriate resolution. The Manager conducts settlement conferences to resolve cases without a contested case hearing. If a hearing is requested, the investigator works with the Assistant Attorney General in preparing for and presenting the case at hearing.

The Compliance Specialists are responsible for conducting: clients' trust accounts (CTA) mail-in reviews, expired activity investigations, and background check investigations. They also respond to inquiries regarding regulations and filing complaints from the public, licensees, and other governmental agencies.

Workload and Activity Indicators

Average # in this Status at the time	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>Current 7/24/19</u>
Complaint	40	44	33	25	20	35
Pending Assignment	3	4	24	16	26	30
Investigation	47	52	49	50	38	53
PENDING & INVESTIGATION	50	56	73	66	64	83
<i>(# of Investigators)</i>	6	7	7	7	7*	6
Admin Review	27	33	28	40	35	62

* One investigator on medical leave.

Philip Johnson resigned from his position as Investigator/Auditor effective June 30, 2019. Liz Hayes is continuing in a work out of class as an Investigator/Auditor through the end of 2019. Currently, a recruitment is underway for two Investigator/Auditor positions.

Selina Barnes presented "ATTENTION: Violation Prevention in McMinnville to the Yamhill County Association of Realtors on July 18, 2019, to 35 attendees.

Administrative Actions Summary

5/22/2019 through 7/19/2019

(Corresponding orders are attached.)

REVOCATIONS

Lebsock, Pamela Dawn (Pendleton) Property Manager 200901138, Default Order dated July 9, 2019, issuing a revocation.

SUSPENSIONS

Draper, Jody L (Albany), Broker 950100114, Stipulated Order dated July 9, 2019, 30 day suspension. Suspension will start on August 26, 2019 and run consecutively through September 24, 2019.

REPRIMANDS

None

CIVIL PENALTIES

Expired — Late Renewal civil penalties 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. ORS 696.990

Hemstreet, Jon Dover (Sheridan), Principal Broker 200411160, Stipulated Order dated May 24, 2019, levying a \$1,100.00 civil penalty for unlicensed activity.

Finucane, Christine M (Molalla), Property Manager 870500060, Stipulated Order dated July 18, 2019, levying a \$1,300.00 civil penalty for unlicensed activity.

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate License of)

5
6 PAMELA DAWN LEBSOCK)

FINAL ORDER BY DEFAULT

7
8
9 1.

10 1.1 On June 14, 2019, the Real Estate Commissioner issued, by certified mail, a
11 Notice of Intent to Revoke the property manager license of Pamela Dawn Lebsock (Lebsock).
12 The Oregon Real Estate Agency (Agency) sent the Notice of Intent to Lebsock's last known
13 address of record with the Agency. The Notice of Intent was also mailed the same day to
14 Lebsock by regular first class mail in a handwritten envelope. These mailings have not been
15 returned to the Agency.

16 1.2 Lebsock's last known address of record with the Agency was 813 NW 5th St.,
17 Pendleton, OR 97801.

18 1.3 The same day, June 14, 2019, the Notice of Intent was also mailed by certified
19 and regular first class mail to Lebsock's attorney, Jack Graham, at 3265 Liberty Rd S., Salem
20 OR 97302. These mailings have not been returned to the Agency.

21 1.4 Over twenty (20) days have elapsed since the mailing of the notice issued in this
22 matter and no written request for hearing has been received.

23 1.5 Copies of the entire investigation file are designated as the record for purposes
24 of default, including any submission from respondent and all information in the administrative
25 file relating to the mailing of notices and any responses received.

26 2.

27 Based upon the foregoing and upon a review of the above described investigation
28 reports, documents and files, the Real Estate Commissioner finds:

29 2.1 Oregon Administrative Rule 863-001-0006 states, in part, that a notice of intent is
30 properly served when deposited in the United States mail, registered or certified mail,

1 addressed to the real estate licensee or to any other person having an interest in a proceeding
2 before the Commissioner at the licensee's or other person's last known address of record with
3 the Agency.

4 2.2 Lebsock's last known address of record with the Agency was 813 NW 5th St.,
5 Pendleton, OR 97801.

6 2.3 A certified mailing of the Notice of Intent was mailed to Lebsock at her last known
7 address of record on June 14, 2019. The return receipt for the certified mailing showed a
8 delivery date of June 16, 2019 and was signed by Lebsock.

9 2.4 The Notice of Intent was also mailed the same day to Lebsock by regular first
10 class mail in a handwritten envelope.

11 2.5 The mailing in the handwritten envelope has not been returned to the Agency. In
12 accordance with ORS 40.135(1)(q), there is a presumption that the mailing properly addressed
13 and placed with the U.S. Postal Service was delivered. That presumption has not been
14 overcome by any evidence.

15 2.6 The Notice of Intent was mailed certified to Lebsock's attorney, Jack Graham, on
16 June 14, 2019 to 3265 Liberty Rd S., Salem, OR 97302. The return receipt for the certified
17 mailing was signed for by Dana Jones, date of delivery was blank. The Notice of Intent was
18 also mailed regular first class mail to Jack Graham and has not been returned to the Agency.

19 2.7 Over twenty (20) days have elapsed since the mailing of the notice and no
20 written request for a hearing has been received.

21 FINDINGS OF FACT

22 &

23 CONCLUSIONS OF LAW

24 3.

25 3.1 At all times mentioned herein, Lebsock was licensed as a property manager
26 doing business under the registered business name of Home Run Property Management.

27 3.2 On December 26, 2017, the Agency received a complaint from property owner
28 Damon Hess (Hess) concerning Lebsock.

29 3.3 Hess's business relationship with Lebsock started in the summer of 2016, when
30 Hess' mother and aunt transferred ownership of their Pendleton rental property named Keiser

1 Court to an LLC (Keiser Court LLC) consisting of Hess, his siblings and his cousins. Hess was
2 selected to represent the group of owners to oversee the property.

3 3.4 Prior to the transfer of ownership regarding the Keiser Court property, Lebsock
4 managed the property for Hess' mother and aunt. Lebsock was unable to provide a copy of
5 the property agreement she had with Hess' mother but stated she thought one existed at one
6 point.

7 3.5 In 2016 when Lebsock began managing the Keiser Court property for Keiser
8 Court LLC she failed to create a property management agreement. During the investigation,
9 Lebsock denied knowing ownership of the property had changed.

10 **(1) Violation:** By failing to create a property management agreement between Keiser Court
11 LLC and Home Run Property Management Lebsock violated ORS 696.301(3) as it
12 incorporates OAR 863-025-0020(1) (5-15-14, 11-15-16 Editions) which states a property
13 manager may not engage in the management of rental real estate without a written unexpired
14 property management agreement between the owner and the property manager.

15 3.6 Keiser Court consisted of multiple addresses: 518 SW 15th and 518.5 SW 15th
16 which is a duplex, 514 SW 15th, 521 SW 14th, 519 SW 14th, 517 SW 14th, and 515 SW 14th
17 which were all mobile homes. At the time ownership was transferred, three of the mobile
18 homes located on it were owned by third parties (Lebsock managed the rental of the lots these
19 mobile homes were on).

20 3.7 A few months after ownership of Keiser Court was transferred to the LLC, Hess
21 requested an update on the status of the property, both its occupancy and its financial reports.
22 Hess stated prior to this request he would receive rental checks with "net balances, without
23 any detail." Hess wanted to understand if all tenants were paying their full rent on time, as he
24 had been unable to discern that from the documentation Lebsock had provided.

25 3.8 The document that was provided to Hess, dated April 25, 2017, was titled
26 "Transaction Detail by Account, January through December 2016." It appeared to function as
27 an owner ledger, but lacked the required detail. Items such as the identity of who remitted
28 payment, check and receipt numbers for all deposits, purpose of disbursements, and running
29 balances were not present or inconsistently reported.

30 ///

1 3.9 Lebsock's bookkeeper, Mark Stansbury (Stansbury), explained that "owner
2 reports" were generated by him at the beginning of each month and then distributed to owners
3 by Lebsock along with their rental income checks. The document's internal title was
4 "Transaction Detail by Account," and Stansbury said it served as the owners' ledger.

5 **(2) Violation:** By failing to include all the required detail on the owners' ledgers, Lebsock
6 violated ORS 696.301(3) as it incorporates OAR 863-025-0055(3)(b)(B)(C)(c)(E)(d) (5-15-14
7 and 11-15-16 Editions), which states all owner ledgers must contain: (b) for each deposit of
8 funds: (B) the purpose of the funds and identity of the person who tendered the funds;(C) the
9 check number, cash receipt number or a unique series of letters and/or numbers that
10 established an audit trail to the receipt of funds;(c) for each disbursement of funds: (E) the
11 purpose of the disbursement and (d) the balance after each recorded entry.

12 518 SW 15th Duplex:

13 3.10 On December 1, 2016, tenants Aimee Gibson and Tanner Gonzalez signed a
14 lease agreement for 518 SW 15th. The lease agreement indicated the tenants would pay
15 \$400.00 for monthly rent. The tenants almost immediately fell behind in their rent payments.
16 They made incremental payments but remained past due. Lebsock said she felt keeping them
17 in the property, even with past due rent payments, was better than having a vacancy. After
18 February 2017 the tenants stopped paying entirely yet still remained in the property. Lebsock
19 admitted she never discussed the situation with Hess or asked him how he would like the
20 tenants' delinquency handled.

21 3.11 Lebsock stated she did not directly communicate to Hess the issues she was
22 having with getting payments from the tenants. She said the information about their partial
23 payments was available to him on his owner statements. The Excel Spreadsheet Lebsock
24 provided to Hess for May 2017 indicated that rent had not been received since January 2017.

25 3.12 On April 10, 2017, Lebsock created a 72 hour notice that indicated Gibson and
26 Gonzalez were past due on rent and owed \$900. The notice demanded \$400 be paid by April
27 13, 2017 or the tenancy would be terminated. There is no record of this payment having been
28 made by the deadline.

29 ///

30 ///

1 3.13 On May 21, 2017, Lebsock issued another eviction notice to Gibson and
2 Gonzalez. The 72-hour notice form indicated the tenants owed \$1,800.00 at that time. This
3 notice resulted in a court ordered stipulated agreement between Lebsock and the tenants.
4 The order indicated that the tenants paid \$400.00 on June 24, 2017, and agreed to pay \$300,
5 twice a month until the \$1,800 past due balance was resolved.

6 **(3) Violation:** By failing to timely inform Hess of the tenants' extreme delinquency Lebsock
7 violated ORS 696.301(12), and (14) (2015 Edition). ORS 696.301 states a licensee's real
8 estate license may be disciplined if they have: (12) demonstrated incompetence or
9 untrustworthiness in performing any act for which the real estate licensee is required to hold a
10 license, Additionally this violated ORS 696.890 (4)(a),(b),and (c) (2015 Edition) which states a
11 property manager owes the property owner the following affirmative duties: (a) to deal honestly
12 and in good faith; (b) to disclose material facts known by the property manager and not
13 apparent or readily ascertainable to the owner; (c) to exercise reasonable care and diligence.
14 Lebsock's conduct is grounds for discipline under ORS 696.301(12), and (14).

15 3.14 According to Hess, when he questioned Lebsock about the occupancy of 518
16 SW 15th, she told him there had been a tenant in one side of the unit, but they had left and it
17 was vacant. Hess was informed by others that both sides of the duplex had tenants in them.
18 Hess became concerned about the conflicting information and scheduled to visit the property
19 himself.

20 3.15 On June 30, 2017, when Hess arrived at the property Lebsock took him through
21 the unit and it appeared vacant. According to Lebsock she told him the tenants "were in the
22 process of moving out," but did not elaborate on it. She did not tell Hess the tenants were
23 staying in a hotel room that she paid for, while he was viewing the unit.

24 3.16 After the walk through, Hess was told by an acquaintance that the tenants
25 inhabiting the unit had been moved into a motel during Hess' visit to the property. Hess then
26 hired a private investigator who drove out to the property and immediately determined the unit
27 was occupied.

28 ///

29 ///

30 ///

1 3.17 On the afternoon of June 29, 2017, text messages between Gibson and Lebsock
2 showed Gibson asking Lebsock about the plan for moving into a hotel room and asked if they
3 would need to move their belongings out of the duplex that day. Lebsock replied, "Yes. Well
4 [sic] out [sic] the bags of clothes in the shed out back. I'm making hotel arrangements now."
5 In another message Lebsock wrote in part, "I hope this all works and you can get caught up
6 because I'm putting a lot of trust and money out."

7 3.18 In another text message Gibson wrote in part, "...so we bagged everything up
8 and put it all in the backroom along with all the big furniture and stuff and made it look like
9 nobody was living here."

10 3.19 The entire text message transcript does not contain any mention of plans for
11 Gibson and Gonzalez to move out of the property. This contradicted Lebsock's statement that
12 the tenants were "in the process of moving out," which is what she claimed to have told Hess.

13 3.20 In one message, Lebsock wrote in part, "Perfect. Thanks for being willing to
14 have a "holiday weekend."" The next day, July 1, 2017, Lebsock text Gibson a message
15 stating, "Owner is gone and seen what he has to say [sic] so you are free to come back at any
16 time."

17 3.21 Home Run's financial records for Gibson and Gonzalez show that they became
18 past due in January, on their first full months' rent. A \$400 payment for February's rent was
19 posted on June 4, 2017, this payment came from a local social service Agency in response to
20 the first eviction notice.

21 3.22 The tenants were finally evicted in August 2017 from the unit.

22 **(4) Violation:** By concealing Gibson and Gonzalezs' tenancy in the unit, Lebsock violated
23 ORS 696.301(1), (12), and (14) (2015 Edition). ORS 696.301 states a licensee's real estate
24 license may be disciplined if they have: (1) created a reasonable probability of danger or injury
25 to a person by making a material misrepresentation in a matter related to professional real
26 estate activity, (12) demonstrated incompetence or untrustworthiness in performing any act for
27 which the real estate licensee is required to hold a license, (14) committed an act of fraud or
28 engaged in dishonest conduct substantially related to the fitness of the licensee to conduct
29 professional real estate activity without regard to whether the conduct occurred in the course of
30 professional real estate activity. Additionally this violated ORS 696.890(4)(a)(2015 Edition)

1 which states a property manager owes the property owner the following affirmative duties: (a)
2 to deal honestly and in good faith. Lebsock's conduct is grounds for discipline under ORS
3 696.301 (1), (12), and (14).

4 3.23 The tenant lease agreement for Gibson and Gonzalez indicated they paid a
5 security deposit of \$600 at the time of moving in. Home Run's financial records for the tenants
6 report they had not paid a deposit.

7 **(5) Violation:** By failing to resolve discrepancies in her records Lebsock demonstrated
8 incompetence in violation of ORS 696.301(12) (2015 Edition) which states a licensee's real
9 estate license may be disciplined if they have demonstrated incompetence or
10 untrustworthiness in performing any act for which the real estate licensee is required to hold a
11 license.

12 518.5 SW 15th Duplex:

13 3.24 518.5 SW 15th was occupied by Tara Fox for approximately four years. For the
14 first two years, a local social service agency CAPECO subsidized the majority of her rent and
15 remitted payment to Home Run on a monthly basis. Fox's monthly contribution was \$10.00.
16 Lebsock allowed Fox to "watch and care for" the property in lieu of making the \$10.00 monthly
17 payments. Lebsock admitted this arrangement was not cleared with Hess.

18 3.25 When the CAPECO subsidy expired, Lebsock allowed Fox to remain in the unit
19 for approximately two years (the final two years of the total four years Fox resided there) in
20 exchange for doing yard work and general upkeep of the property without any rental payments
21 being made.

22 3.26 The Excel spreadsheet Home Run provided to Hess for May 2017 indicated this
23 unit was vacant.

24 **(6) Violation:** By concealing Fox's tenancy and allowing her to occupy the unit without
25 paying rent Lebsock violated ORS 696.301(1), (12), and (14) (2013 and 2015 Editions). ORS
26 696.301 states a licensee's real estate license may be disciplined if they have: (1) created a
27 reasonable probability of danger or injury to a person by making a material misrepresentation
28 in a matter related to professional real estate activity, (12) demonstrated incompetence or
29 untrustworthiness in performing any act for which the real estate licensee is required to hold a
30 license, (14) committed an act of fraud or engaged in dishonest conduct substantially related to

1 the fitness of the licensee to conduct professional real estate activity without regard to whether
2 the conduct occurred in the course of professional real estate activity. Additionally this violated
3 ORS 696.890 (4)(a)(2013 and 2015 Editions) which states a property manager owes the
4 property owner the following affirmative duties: (a) to deal honestly and in good faith.
5 Lebsock's conduct is grounds for discipline under ORS 696.301(1), (12), and (14).

6 2203 SW Nye:

7 3.27 On August 28, 2017, Charles Naegli (C Naegli) and his mother Theresa Naegli (T
8 Naegli), moved into a unit at 2203 SW Nye. No lease agreement was created at that time.

9 3.28 2203 SW Nye is part of an apartment complex owned by 366 Development, who
10 hired a property management company from Portland, Criteria Properties (Criteria) to manage
11 their investment. Criteria served as an asset manager for the property and hired Lebsock as
12 the local property manager.

13 3.29 C.Naegli received a rental subsidy from the local service agency, CAPECO. On
14 December 6, 2017, Mindy Long (Long), a case worker from CAPECO reached out to the
15 President of Criteria, James Schaff (Schaff), requesting a copy of the tenant's lease
16 agreement. Long explained she needed documentation before she could issue rental
17 assistant payments on behalf of the tenant. Schaff told the caseworker that he had no
18 knowledge of the tenant and had no record of the lease agreement for 2203 SW Nye.

19 3.30 Long had phoned Lebsock on August 28, 2017, to request a copy of the lease
20 agreement. Lebsock assured Long a lease agreement would be signed before September 1.
21 CAPECO made several more additional requests for the lease agreements in September,
22 October and November. On all occasions Lebsock told CAPECO caseworker that she did not
23 have a lease agreement but would create one. This caused the unit to be occupied by the
24 Naeglis for three months without any rental income paid by CAPECO.

25 **(7) Violation:** By failing to create a lease agreement, allowing tenants to move into a
26 property without a lease agreement, and continuing to allow them to reside in the property for
27 three months without any rent being paid by CAPECO, Lebsock violated ORS 696.301(1) and
28 (12) (2015 Edition). ORS 696.301 states a licensee's real estate license may be disciplined if
29 they have: (1) created a reasonable probability of danger or injury to a person by making a
30 material misrepresentation in a matter related to professional real estate activity, (12)

1 demonstrated incompetence or untrustworthiness in performing any act for which the real
2 estate licensee is required to hold a license. Additionally, Lebsock violated ORS 696.890(4)(f)
3 (2015 Edition) which states a property manager owes the property owner the duty of being
4 loyal to the owner by not taking action that is adverse to the owner's interest. Lebsock's
5 conduct is grounds for discipline under ORS 696.301(1) and (12).

6 3.31 Lebsock created a lease agreement for C Naeglis and T Naeglis (Naeglis) and
7 presented it to them to sign in December 2017. According to C. Naegli, Lebsock instructed
8 him to use September 1, 2017, as the date of execution.

9 **(8) Violation:** By falsifying the date of execution on the Naeglis' tenant lease agreement,
10 Lebsock violated ORS 696.301(12) and (14) (2015 Edition). ORS 696.301 states a licensee's
11 real estate license may be disciplined if they have: (12) demonstrated incompetence or
12 untrustworthiness in performing any act for which the real estate licensee is required to hold a
13 license, (14) committed an act of fraud or engaged in dishonest conduct substantially related to
14 the fitness of the licensee to conduct professional real estate activity without regard to whether
15 the conduct occurred in the course of professional real estate activity.

16 325 SW Court:

17 3.32 In April 2017, a CAPECO client that Lebsock placed in 325 SW Court was facing
18 eviction and contacted CAPECO for assistance. When CAPECO staff requested a copy of the
19 lease agreement and receipts for rent paid previously the tenant indicated she had never
20 signed a lease agreement with Lebsock nor had Lebsock provided receipts for the cash rent
21 payments made by the tenant.

22 **(9) Violation:** By failing to have a tenant lease agreement in place for the CAPECO client
23 residing at 325 SW Court Street Lebsock violated ORS 696.301(12) (2015 Edition). ORS
24 696.301 states a licensee's real estate license may be disciplined if they have: (12)
25 demonstrated incompetence or untrustworthiness in performing any act for which the real
26 estate licensee is required to hold a license.

27 **(10) Violation:** By failing to provide receipts for the cash rents received for the tenant at 325
28 SW Court, Lebsock violated ORS 696.301(3) as it incorporates OAR 863-025-0060(1) (11-15-
29 16 Edition) which states a property manager must prepare a legible written receipt for any cash
30 funds received under a property management agreement.

1 3.33 The tenant later returned to CAPECO with a copy of a signed lease agreement.
2 When asked for an explanation, the tenant explained that Lebsock helped her by driving her
3 back to the CAPECO office and executed a lease agreement in the parking lot. The lease was
4 backdated. CAPECO staff informed the tenant they could not accept the backdated lease
5 agreement.

6 **(11) Violation:** By falsifying the date of execution on the tenant lease agreement for the
7 CAPECO client residing at 325 SW Court Street, Lebsock violated ORS 696.301(12) and (14)
8 (2015 Edition) ORS 696.301 states a licensee's real estate license may be disciplined if they
9 have: (12) demonstrated incompetence or untrustworthiness in performing any act for which
10 the real estate licensee is required to hold a license, (14) committed an act of fraud or engaged
11 in dishonest conduct substantially related to the fitness of the licensee to conduct professional
12 real estate activity without regard to whether the conduct occurred in the course of professional
13 real estate activity.

14 3.34 The main office location for Home Run listed in the Agency's licensing database
15 was at 813 NW 5th St, Lebsock's home office. As of June 21, 2018, Lebsock's property
16 management records were located in separate locations. Records were in her home office,
17 some were held by her bookkeeper (at a different location), and others were at a storage
18 facility. Lebsock had not notified the Agency of a change of location for her records.

19 3.35 During Lebsock's interview with Agency Investigator/Auditor Francis Hlawatsch
20 on June 21, 2018, Lebsock was unable to provide details relating to specific dates, timeframes,
21 past due balances, or specific transaction dates and amounts because she was incapable of
22 accessing her computerized financial records. Lebsock stated her bookkeeper, Mark
23 Stansbury, maintained all of these records and she did not have access to the electronic
24 records he kept.

25 **(12) Violation:** By failing to notify the Agency of the location of your financial records
26 Lebsock violated ORS 696.301(3) as it incorporates OAR 863-025-0035(5) (11-15-16 and 1-1-
27 18 Editions) which states a property manager may maintain required records at a location
28 other than the main business office if the property manager notifies the Commissioner in
29 writing five banking days prior to establishing the new location.

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1 **(13) Violation:** During the interview, Lebsock was unable to provide details for specific
2 transactions due to her inability to access her computerized financial records without the
3 assistance of her bookkeeper, this violated ORS 696.301(3) as it incorporates OAR 863-025-
4 0035(3)(b)(1-1-18 Edition) which states if a property manager uses a computerized system for
5 creating, maintaining, and producing required records and reports: (b) posting of owners
6 ledgers, record of receipts and disbursements, tenant ledgers and manipulation of information
7 and documents must be maintained in a format that will readily enable tracking and
8 reconciliation.

9 3.36 During Lebsock's interview on June 21, 2018, she indicated that she did not
10 review or sign the monthly reconciliations prepared by her bookkeeper. She explained this
11 was handled entirely by her bookkeeper Stansbury. During Stansbury's interview he stated he
12 was responsible for reconciling the company's trust accounts and preparing financial
13 documents and reports for Lebsock and her clients.

14 3.37 Stansbury said that Lebsock recorded all transactions in a deposit book and a
15 checkbook. Several times a month she would drop off these books so Stansbury could enter
16 the data into Excel spreadsheets or QuickBooks. Stansbury said Lebsock reviews his work
17 and the reports he creates.

18 **(14) Violation:** By failing to review and sign the monthly clients' trust account reconciliation
19 that were prepared by her bookkeeper, Lebsock violated ORS 696.301(3) as it incorporates
20 OAR 863-025-0028(2)(d)(B) (1-1-18 Edition) which requires a property manager to within 30
21 calendar days from the date of the bank statement sign and date the reconciliation document
22 attesting to the accuracy and completeness of the reconciliation.

23 3.38 The report 2017 Rents Received Report created by Stansbury and used by
24 Lebsock as a record of receipts and disbursements did not include information about who
25 remitted payments.

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1 **(15) Violation:** The report Lebsock used as a record of receipts and disbursements did not
2 include the source of payments which violated ORS 696.301(3) as it incorporates OAR 863-
3 025-0040(2)(a)(C) (11-15-16 Edition) which requires (2) a record of receipts and
4 disbursements or a check register must contain at least the following information: (a) for each
5 receipt of funds: (C) the purpose of funds and identity of the person who tendered them, for
6 each receipt of funds.

7 3.39 A document used as a security deposit ledger was titled "C Security Account
8 Detail," and dated May 31, 2018 listed four occupied units with security deposits on file that did
9 not include the tenant name. The security deposit balances ranged from \$80.00 to \$1,500.00.

10 **(16) Violation:** The document Lebsock used as a security deposit ledger failed to include all
11 the tenant names for submitted deposits, this violated ORS 696.301(3) as it incorporates OAR
12 863-025-0050(1) (11-15-16 Edition) which requires a property manager to prepare and
13 maintain at least one tenant's ledger for each individual tenant from whom the property
14 manager has received funds.

15 3.40 In regards to the monthly reconciliations, Stansbury would use the checkbook
16 and deposit book (dropped off by Lebsock) to reconcile against the bank account, in effect
17 reconciling two ways. During his June 2018 interview, Stansbury said Lebsock had no
18 involvement in the reconciliation process apart from when he had questions about transaction
19 details or client and tenant names.

20 **(17) Violation:** By allowing her bookkeeper to reconcile without using the sum of all positive
21 owners' ledgers as the third required component Lebsock failed to complete the required three
22 way reconciliations in violation of ORS 696.301(3) as it incorporates OAR 863-025-0028(2) 1-
23 1-2018 Edition) which requires a property manager to reconcile each clients' trust account
24 within 30 calendar days of the date of the bank statement and the reconciliation must have the
25 required three components contained in a single reconciliation document, including the sum of
26 all positive owners' ledgers as of the date of the bank statement.

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1 3.41 Stansbury explained during his interview that checks for owner's rental income
2 were cut prior to all rents being posted and payments for utilities being cleared. Stansbury
3 said this occurred because some tenants paid later in the month. According to Stansbury, this
4 method often caused owners to have negative balances temporarily, but their balances were
5 eventually restored once all rents had been posted. Lebsock admitted that negative balances
6 often appear on the owners' ledgers but explained that they were temporary.

7 **(18) Violation:** By allowing owner checks to be issued prior to all payments clearing which
8 caused negative balances on the owner ledgers Lebsock violated ORS 696.301(3) as it
9 incorporates OAR 863-025-0025 (12) (11-15-16 Edition), OAR 863-025-0027(3) (1-1-2018
10 Edition) which states a property manager must not disburse funds from a clients' trust account
11 or security deposits account unless there are sufficient funds, as defined in OAR 863-025-0010
12 in the ledger account against which the disbursement is made. OAR 863-025-0010(21)
13 defines sufficient funds as an amount of funds on an owner's ledger or a tenant's ledger that is
14 equal to or greater than the amount of a planned disbursement from a clients' trust account.
15 Only funds belonging to the owner on whose behalf the disbursement is planned may be
16 considered in determining if there are sufficient funds.

17 121 ½ SE 10th Court and 929 SE Court Place:

18 3.42 Property owner Grant Peterson (Peterson) owned rental property located at 121
19 ½ SE 10th Court and 929 SE Court Place in Pendleton. Lebsock was the property manager for
20 the property when he purchased it in September 2016. Peterson decided to continue using
21 Lebsock and Home Run to manage the rental. Peterson said he consistently received rental
22 income from Lebsock but he was unsure what the funds were for since the checks simply said
23 "rent" in the memo section and did not have any accompanying documentation. Peterson said
24 Lebsock, "could never tell me what the rents were." Peterson said he communicated to
25 Lebsock that he would like timely reports and accounting. He said Lebsock made excuses and
26 blamed the accountant. He said she would promise to get documents to him but usually didn't
27 and provided more excuses. This frustration led Peterson to terminate Lebsock's services and
28 he changed property managers around January 2018.

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1 **(19) Violation:** By failing to provide owner Grant Peterson with monthly owner statements
2 Lebsock violated ORS 696.301(3) as it incorporates OAR 863-025-0055(4) (11-15-16 Edition)
3 which states a property manager must report in writing to each owner any change in the
4 owner's ledger. A monthly report showing all receipts and disbursements for the account of
5 the owner during the prior monthly period is sufficient.

6 4.

7 4.1 The above violations are grounds for discipline pursuant to ORS 696.301.

8 4.2 Based on these violations, the Agency is revoking Lebsock's property manager
9 license. A revocation is appropriate for violations of ORS 696.301(12) and (14).

10 4.3 A revocation of Lebsock's property manager license is appropriate under ORS
11 696.396(2)(c)(A),(B), and (C). According to ORS 696.396(2)(c)(A),(B), and (C) the Agency
12 may revoke a real estate license if the material facts establish a violation of a ground for
13 discipline under ORS 696.301 that: (A) results in significant damage or injury; (B) exhibits
14 incompetence in the performance of professional real estate activity; (C) exhibits dishonesty or
15 fraudulent conduct.

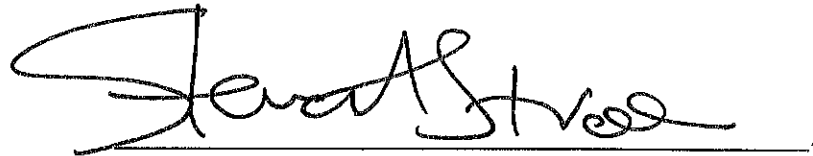
16 4.4 The Agency reserves the rights to investigate or pursue additional complaints
17 that may be received in the future regarding this licensee.

18 ORDER

19 IT IS HEREBY ORDERED that Lebsock's property manager license is revoked.

20 Dated this 9th day of July, 2019.

23 OREGON REAL ESTATE AGENCY

24 

27 Steven Strode

28 Real Estate Commissioner

29 Date of Service: 7/9/2019

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NOTICE: You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the date of service of this order. Judicial review is pursuant to the provisions of ORS 183.482.

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5REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of

JODY L. DRAPER

STIPULATED FINAL ORDER

The Oregon Real Estate Agency (Agency) and Jody L. Draper (Draper) do hereby agree and stipulate to the following:

FINDINGS OF FACT

&

CONCLUSIONS OF LAW

1.

1.1 At all times mentioned herein, Draper was licensed as a real estate broker with Keller Williams Realty, Eugene and Springfield (Keller Williams).

1.2 On July 31, 2018, the Agency received a complaint from Travis Tubbs (Tubbs) relating to his purchase of property located at 3577 Jefferson Scio Dr. SE (subject property). Draper was the listing agent for the subject property.

1.3 Draper is a member of West Gate Group LLC along with Brad Dumilieu (Dumilieu). West Group LLC (West Gate) owned the subject property.

1.4 On April 15, 2017, Travis Tubbs (Tubbs) made an offer to purchase the subject property from West Gate.

1.5 On April 19, 2017, Tubbs received a Seller's Property Disclosure Statement signed by both Dumilieu and Draper on March 30, 2017 as the sellers. For the question stating, "Has the property ever been used as an illegal drug manufacturing or distribution site," Dumilieu and Draper answered, "Unknown."

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1 1.6 On July 7, 2017, Draper signed a Statutory Warranty Deed transferring title of the
2 subject property to Travis and Denay Tubbs.

3 1.7 Dumillieu had lived in subject property for a few years prior to it being sold to
4 Tubbs. Draper never occupied the subject property.

5 1.8 A few days after escrow closed, Dumillieu met with Ricardo Vega (Tubbs' agent)
6 and told Vega not to let Tubbs' family move into the house because it was contaminated with
7 Methamphetamine (Meth). Dumillieu told Vega that he had tested the property for Meth and
8 the tests came back positive. Vega asked Dumillieu if Draper knew that Dumillieu had tested
9 for Meth and Dumillieu told Vega that Draper had known.

10 1.9 On July 14, 2017, Vega sent an email to Draper, stating in part the following:
11 "Jody, I was just informed by Brad that there has been Methamphetamine
12 production on the property and in the home."

13 1.10 Draper called Vega in response to his email and admitted he had heard Dumillieu
14 talk about the Meth contamination, but he hadn't believed Dumillieu.

15 1.11 In his written response to Tubbs' complaint, Draper pointed out that Dumillieu had
16 his girlfriend and her dog living at the property as well as having other people's children and
17 dogs on and in the property. Draper said these reasons led him to believe the property was fit
18 to be occupied.

19 1.12 According to Draper, there were multiple instances where Dumillieu had
20 sabotaged his efforts to sell the subject property so Dumillieu could continue to live there rent
21 free as caretaker.

22 1.13 Draper admitted that during an attempt to sell the subject property in 2015
23 Dumillieu told Draper he had heard rumors that the property was contaminated with Meth.
24 Draper thought it was another attempt by Dumillieu to sabotage the sale. Draper obtained a
25 home test kit for Meth and performed the test and the results showed negative for any traces
26 of Meth residue. Draper said he had tried to do the right thing by performing the test, and
27 when the results were negative, he assumed the rumors were not true.

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1 **Violation:** By failing to disclose to the buyer that Brad Dumillieu had informed Draper he
2 had the house tested for Meth contamination, with positive results, and Draper had performed
3 a home test for Meth contamination, with negative results, Draper violated ORS 696.301(3) as
4 it incorporates ORS 696.805(2)(a) and (c) (2015 Edition) which states (2) a seller's agent owes
5 the seller, other principals and the principals' agents involved in a real estate transaction the
6 following affirmative duties: (a) to deal honestly and in good faith; (c) to disclose material facts
7 known by the seller's agent and not apparent or readily ascertainable to a part. Draper also
8 demonstrated incompetence in violation of ORS 696.301(12) which states a licensee's real
9 estate may be subject to discipline if they have demonstrated incompetence or
10 untrustworthiness in performing any actions for which the licensee is required to hold a license.

11 **Violation:** By failing to hire a professional licensed Meth Testing and Abatement
12 contractor in 2015 when Draper was first told the property might be contaminated with Meth
13 and instead of performing the home test himself, Draper engaged in conduct that is below the
14 standard of care for the practice of professional real estate activity in Oregon, as established
15 by the community of individuals engaged in the practice of professional real estate activity in
16 Oregon, in violation of ORS 696.301(15) (2015 Edition).

17 1.14 Draper said the next he heard of any potential contamination was a few days
18 after Tubbs' escrow closed, Dumillieu contacted Tubbs' broker (Vega) and told him that the
19 house was contaminated. Draper said as soon as he heard, he ordered testing by a
20 professional Meth testing company.

21 1.15 On July 16, 2017, Draper hired Environmental Testing & Training Northwest to
22 test the property for Meth contamination. Four locations inside the house were tested, with
23 three of the four samples showing positive for Meth contamination. Draper said after the tests
24 came back positive, he immediately contacted his personal insurance copy, as well as Keller
25 Williams contacting theirs. Draper said he tried to help Tubbs in any way he could.

26 1.16 According to Draper, Tubbs declined rescinding the contract.

27 1.17 Several mediation meetings were held. On October 25, 2018, Tubbs sent an
28 email to Agency Investigator Rob Pierce to inform the Agency that he had reached a
29 settlement with Keller Williams' insurance company and wished to remove his complaint
30 against Draper.

2.

2.1 The foregoing violations are grounds for discipline pursuant to ORS 696.301. Based on these violations a suspension is appropriate for violations of ORS 696.301(12) and (15).

2.2 A suspension of Draper's broker license is appropriate under ORS 696(2)(c)(A), and (B). According to ORS 696.396, the Agency may suspend a real estate license if the material facts establish a violation of a ground for discipline under ORS 696.301 that: results in significant damage or injury; exhibits incompetence in the performance of professional real estate activity.

2.3 The Agency reserves the right to investigate and pursue additional complaints that may be received in the future regarding this licensee.

2.4 In establishing the violations alleged above, OREA may rely on one or more of the definitions contained in ORS 696.010.

STIPULATION & WAIVER

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

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

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ORDER

IT IS HEREBY ORDERED that Draper's broker license be suspended for 30 days. The suspension will start on August 26, 2019, and run consecutively through September 24, 2019.

IT IS SO STIPULATED:

IT IS SO ORDERED:



JODY L. DRAPER



Steven Strode
Real Estate Commissioner

Date 6-1-19

Date 7/9/19

Date of Service: 7/9/2019

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
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4
5 In the Matter of the Principal Broker
6 License of
7 JON DOVER HEMSTREET
8

}
STIPULATED FINAL ORDER

9
10 The Oregon Real Estate Agency (Agency) and Jon Dover Hemstreet (Hemstreet) do
11 hereby agree and stipulate to the following:

12 FINDINGS OF FACT

13 &

14 CONCLUSION OF LAW

15 1.1 Hemstreet was licensed as a principal broker working under the registered
16 business name of Northwest Land and Timber LLC.

17 1.2 On August 1, 2018, the Agency emailed Hemstreet stating his license would
18 expire at the end of August and he needed to renew his license no later than the last day of the
19 month.

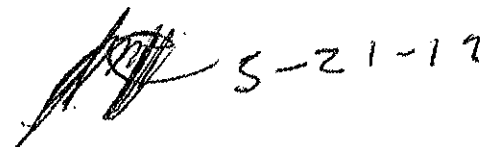
20 1.3 On August 27, 2018, the Agency emailed Hemstreet that he had a few more
21 days to renew his license and avoid paying the late fee.

22 1.4 On September 1, 2018, Hemstreet's principal broker license expired and was not
23 renewed until November 20, 2018.

24 1.5 On November 20, 2018 the Agency emailed Hemstreet that his online renewal
25 was successful. The email stated in part, "If you were in an expired active status prior to
26 renewal, you will be required to be transferred by a principal broker or property manager. After
27 your license has been transferred you will return to the active status."

28 1.6 On November 21, 2018, the Agency emailed Hemstreet that his renewal was
29 pending and he needed to be transferred into a company.

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 5-21-18

1 1.7 On November 21, 2018, the Agency emailed Hemstreet warning that his license
2 was at risk of being inactivated.

3 1.8 All of the emails sent to Hemstreet were sent to: jonhemstreet@yahoo.com, the
4 email address on file at the Agency for Hemstreet. Hemstreet verified this was his correct
5 email address.

6 1.9. Hemstreet's license was not attached to a company until December 21, 2018, at
7 which time his license became active again. From the time Hemstreet's license expired on
8 September 1, 2018 through December 20, 2018, 111 days, Hemstreet continued conducting
9 professional real estate activity as if actively licensed.


10 1.10 On his November 20, 2018, renewal application, Hemstreet answered "Yes," to
11 the following question: "At any time during the past 24 months, while holding an inactive or
12 expired real estate license have you conducted professional real estate activity." Hemstreet
13 made the following comment to the question: "Unknown to me my license expired at the end of
14 August 2018. I had an illness in the family, renewing my real estate [sic] slipped between the
15 cracks. During this time I maintained my listings but didn't have any accepted offers or close
16 on any transaction."

17 **Violation:** By continuing to conduct professional real estate activity for 111 days after
18 Hemstreet's license expired and before renewing and completing all the required steps to
19 return the license to active status, Hemstreet violated ORS 696.020(2), which states an
20 individual may not engage in, carry on, advertise or purport to engage in or carry on
21 professional real estate activity, or act in the capacity of a real estate licensee, within this state
22 unless the individual holds an active license. Hemstreet is subject to discipline or civil penalty
23 pursuant to ORS 696.990.

24 1.11 On May 8, 2018, the Agency issued Hemstreet a Notice of Intent to Levy Civil
25 Penalty.

26 STIPULATION & WAIVER

27 I have read and reviewed the above findings of fact and conclusions of law which have
28 been submitted to me by the Agency and further, the order which follows hereafter. I
29 understand that the findings of fact, conclusions of law and this stipulation and waiver embody
30 the full and complete agreement and stipulation between the Agency and me. I further

 21-19
5-19

1 understand that if I do not agree with this stipulation I have the right to request a hearing on
2 this matter and to be represented by legal counsel at such a hearing. Hearings are conducted
3 in accordance with the procedures set forth in ORS Chapter 183 and in accordance with the
4 Rules of Practice and Procedure adopted by the Attorney General of the State of Oregon. I
5 freely and voluntarily waive my rights to a hearing, to representation by legal counsel at such a
6 hearing, and to judicial review of this matter.

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

12 ORDER

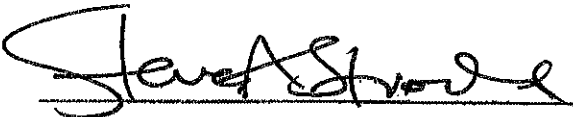
13 IT IS HEREBY ORDERED that pursuant to ORS 696.990(1) to (9) and based upon the
14 violation set forth above, Hemstreet pay a civil penalty in the sum of \$1,100.00, said penalty to
15 be paid to the General Fund of the State Treasury by paying the same to the Agency. The civil
16 penalty is computed in accordance with ORS 696.990(4) and (9) in that each 30-day period of
17 unlicensed activity is considered one violation. In this instance, there were three 30-day
18 periods of unlicensed activity.

19 IT IS FURTHER ORDERED that the notice of Intent issued to Hemstreet on May 8,
20 2019, is hereby withdrawn.

21
22 IT IS SO STIPULATED:

IT IS SO ORDERED:

23
24 
25 _____
26 Jon Dover Hemstreet

27 
28 _____
29 Steven Strode

30
Date 5-21-19

Real Estate Commissioner
Date 5/24/19

Date of Service: 5/24/2019

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4
5 In the Matter of the Property Manager
6 License of
7 CHRISTINE M. FINUCANE
8

}
} STIPULATED FINAL ORDER
}

9
10 The Oregon Real Estate Agency (Agency) and Christine M. Finucane (Finucane) do
11 hereby agree and stipulate to the following:

12 FINDINGS OF FACT

13 Finucane was licensed as a property manager with Christine's Property Management
14 LLC. Finucane's license expired on July 1, 2018. On January 25, 2019, Finucane became
15 aware of her expired license and immediately ceased all professional real estate activity.
16 Finucane renewed her license on January 29, 2019. While her license was expired, from July
17 1, 2018 to January 25, 2019, 209 days, Finucane continued conducting professional real
18 estate activity as if actively licensed. Finucane provided mitigating circumstances which
19 allowed OREA to reduce the civil penalty.

20 CONCLUSION OF LAW

21 By conducting professional real estate activity over the course of 209 days after
22 Finucane's license expired and before renewing it, Finucane violated ORS 696.020(2) and is
23 subject to discipline or civil penalty pursuant to ORS 696.990(4) and (9).

24 STIPULATION & WAIVER

25 I have read and reviewed the above findings of fact and conclusions of law which have
26 been submitted to me by the Agency and further, the order which follows hereafter. I
27 understand that the findings of fact, conclusions of law and this stipulation and waiver embody
28 the full and complete agreement and stipulation between the Agency and me. I further
29 understand that if I do not agree with this stipulation I have the right to request a hearing on
30 this matter and to be represented by legal counsel at such a hearing. Hearings are conducted

1 in accordance with the procedures set forth in ORS Chapter 183 and in accordance with the
2 Rules of Practice and Procedure adopted by the Attorney General of the State of Oregon. I
3 freely and voluntarily waive my rights to a hearing, to representation by legal counsel at such a
4 hearing, and to judicial review of this matter.

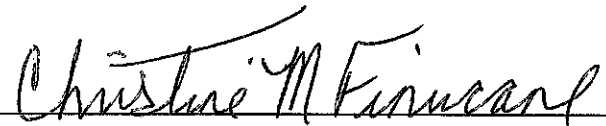
5 I hereby agree and stipulate to the above findings of fact and conclusions of law and
6 understand that the order which follows hereafter may be completed and signed by the Real
7 Estate Commissioner or may be rejected by the Real Estate Commissioner. I understand that,
8 in accordance with the provisions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

10 ORDER

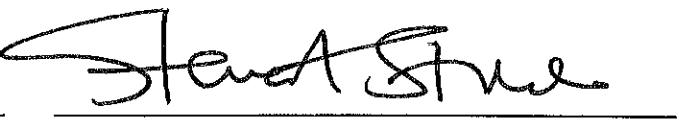
11 IT IS HEREBY ORDERED that pursuant to ORS 696.990(1) to (9) and based upon the
12 violation set forth above, Finucane pay a civil penalty in the sum of \$1,300.00, said penalty to
13 be paid to the General Fund of the State Treasury by paying the same to the Agency. The civil
14 penalty is computed in accordance with ORS 696.990(4) and (9) in that each 30-day period of
15 unlicensed activity is considered one violation. In this instance, there were six 30-day periods
16 of unlicensed activity.

17
18 IT IS SO STIPULATED:

IT IS SO ORDERED:

19
20
21 

22 CHRISTINE M. FINUCANE

20
21 

22 STEVEN STRODE

23 Real Estate Commissioner

24 Date 7-8-2019

24 Date 7/18/19

25
26 Date of Service: 7/18/19

REAL ESTATE BOARD
ADMINISTRATIVE SERVICES DIVISION REPORT
August 5, 2019

Administrative Services Manager: Anna Higley
Communications Coordinator: Mesheal Heyman
Accountant: Caty Karayel
Systems Administrator: Tiffani Miller
Program Analyst: Rus Putintsev
Administrative Specialist: Leandra Hagedorn

Customer Service Manager: Madeline Alvarado
Compliance Specialist: Tami Schemmel
Compliance Specialist: Danette Rozell
Licensing Specialist: Jenifer Wetherbee
Receptionist: Nenah Darville

Section Overview

The Administrative Services Division acts as support to the Agency as well as the first point of contact for the public. This division manages budget preparation, accounting, purchasing and contracting, inventory control, facilities, payroll, human resources, special projects, information technology (IT), reception, licensing services, communications and education.

Budget Update

Financials: 2017-19 biennium revenue has come in at **\$9.2 million**. Budget period end reconciliation is still underway, though projected expenses are at **\$7.5 million**. The Agency cash balance as of June 30th is **\$2.6 million**. The Agency began the biennium with \$832,365 in cash reserve. Growth is attributed primarily to fee increases enacted on January 1, 2018 as well as sustained growth in new license applications. Increases to condominium filings has had a small bearing on greater revenue growth, but has had a noteworthy impact upon Land Development division revenue with a 47% increase over the 2015-2017 biennium. The bill with the final 2019-21 Agency budget passed at the end of session with minimal adjustments from the Governor’s Recommended Budget for **\$8.5 million**.

Education

The Board subcommittee for the development of the 2020-2021 Law and Rule Required Course (LARRC) will meet on the 4th of August at 3 p.m. in Hood River to discuss bills passed during the 2019 legislative session that change real estate law. After the public comment period, the subcommittee will propose the draft course outline for Board approval at the October board meeting.

Licensing

Licensing services include assisting real estate brokers, principal brokers, property managers and escrow agencies as they manage their licenses using eLicense, assisting customers as they process registered business names and branch office registrations in eLicense, registering membership campground contract brokers, completing license applicant criminal background check investigations, processing escrow licensing and security/bonding files, maintaining all licensing history records, electronic processing of fees, and providing general reception services.

RBN Renewal

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<u>Eligible to Renew</u>	423	344	376	347	318	320						
<u>Failed to Renew</u>	26	15	14	22	14	16						
<u>% Renewed</u>	94%	96%	96%	94%	96%	95%						

Licensing Statistics

Total Licensee Counts by Month:

Individuals (Persons)	May-19	Jun-19
Broker – Total	16,259	16,280
Active	14,440	14,483
Inactive	1,819	1,797
Principal Broker - Total	6,448	6,446
Active	6,042	6,044
Inactive	406	402
ALL BROKERS Total	22,707	22,726
Active	20,482	20,527
Inactive	2,225	2,199
Property Manager - Total	925	932
Active	793	801
Inactive	132	131
MCC Salesperson	22	22
MCC Broker	1	1
TOTAL INDIVIDUALS	23,655	23,681
Active	21,298	21,351
Inactive	2,357	2,330
Facilities (Companies)		
REMO	6	5
Registered Business Name (RBN)	3,895	3,890
Registered Branch Office (RBO)	735	735
Escrow Organization	62	60
Escrow Branch	147	145
PBLN	NA	NA
PMLN	NA	NA
CEP	300	303
MCC Operator	25	25
TOTAL FACILITIES	5,170	5,163
TOTAL INDIVIDUALS & FACILITIES	28,825	28,844

New Licenses by Month:

Individuals (Persons)	May-19	Jun-19
Broker	215	170
Principal Broker	18	14
TOTAL BROKERS	233	184
Property Manager	11	12
MCC Salesperson	0	0
MCC Broker	0	0
TOTAL INDIVIDUALS	244	196
Facilities (Companies)		
Continuing Education Provider (CEP)	0	3
REMO	0	0
Registered Business Name	35	24
Registered Branch Office	12	6
Escrow Organization	0	1
Escrow Branch	1	0
MCC Operator	0	0
TOTAL FACILITIES	48	31
TOTAL INDIVIDUALS & FACILITIES	292	227

Exam Statistics

June 2019

Total

ALL LICENSING EXAMS

Broker	487
Property Manager	27
Principal Broker	68
Reactivation	7

Pass Rates

<u>First Time Pass Rate</u> <u>Percentage</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
Broker State	69	64	61	58	58
Broker National	78	74	73	72	72
Principal Broker State	62	59	58	59	46
Principal Broker National	78	75	76	77	73
Property Manager	59	64	69	67	62

Oregon Real Estate Agency
 Administrative Services Division
 Licensee Application & Renewal
 2018 Data

New Applications													
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Brokers	322	303	352	353	302	325	271	293	270	236	260	231	3518
Principal Brokers	48	32	34	25	41	30	26	33	42	38	30	23	402
Property Managers	26	30	20	18	20	25	19	16	23	29	20	20	266
Total	396	365	406	396	363	380	316	342	335	303	310	274	4186

Renewed & Lapsed Licenses														
Brokers		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
On Time	Active	453	430	469	483	481	469	483	464	496	492	436	499	5655
	Inactive	56	48	45	37	47	33	39	40	36	44	44	36	505
Late	Active	34	21	40	39	42	27	28	37	32	33	41	28	402
	Inactive	2	10	4	7	13	9	12	11	7	10	10	10	105
Lapse		96	80	97	87	113	84	87	96	88	109	68	81	1086
Total		641	589	655	653	696	622	649	648	659	688	599	654	7753

Principal Brokers		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
On Time	Active	227	241	233	238	245	249	203	222	238	208	216	211	2731
	Inactive	11	10	10	17	15	17	15	12	8	8	14	12	149
Late	Active	8	8	12	16	13	12	12	11	14	9	12	8	135
	Inactive	1	2	2	3	2	3	1	4	2	2	1	3	26
Lapse		21	18	22	18	21	18	23	14	25	19	32	20	251
Total		268	279	279	292	296	299	254	263	287	246	275	254	3292

Oregon Real Estate Agency
Administrative Services Division
Phone Counts

(minutes: seconds)	Jan – 19	Feb – 19	Mar – 19	Apr – 19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov--19	Dec-19	2019 Average
Call Count	2251	1748	1917	2138	2062	1738							1976
Average Wait Time	:20	:21	:29	:23	:24	:33							:25
Maximum Wait Time	16:06	9:32	21:21	14:03	15:58	13:20							15:03

(minutes: seconds)	Jan – 18	Feb – 18	Mar – 18	Apr – 18	May-18	Jun-18	Jul-18	Aug-18	Sep-18	Oct-18	Nov--18	Dec-18	2018 Average
Call Count	2317	2006	2263	2063	2113	2084	1837	2049	1824	2153	1828	1738	2024
Average Wait Time	:22	:15	:17	:16	:16	:27	:21	:19	:21	:23	:17	:25	:20
Maximum Wait Time	5:32	3:23	8:58	7:05	13:27	12:18	14:40	12:53	10:26	13:22	7:41	10:07	8:29

(minutes: seconds)	Jan – 17	Feb – 17	Mar – 17	Apr – 17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	17-Nov	Dec-17	2017 Average
Call Count	2136	1944	2065	1766	1963	1939	1809	2009	1893	1968	1711	2051	1938
Average Wait Time	:45	:21	:23	:18	:17	:18	:23	:22	:16	:14	:16	:23	:21
Maximum Wait Time	28:13*	11:42	8:07	8:17	7:22	5:09	7:37	6:51	4:29	4:16	4:34	13:47	7:28

Real Estate Agency - AY19

2017-19 Budget - Through June 30th 2019

<i>Budget Codes</i>		<u>Legislative Approved Budget</u>	<u>Expected Total Expenditures for Biennium (current)</u>	<u>Expected Remaining Limitation at end of Biennium</u>
	Total Personal Services	6,121,432.00	6,187,316	(65,884)
4100 & 4125	In-State Travel & Out-of-State Travel	95,146.00	109,798	(14,652)
4150	Employee Training	35,640.00	25,331	10,309
4175	Office Expenses	113,231.00	40,874	72,357
4200	Telecom/Tech Services & Support	29,024.00	52,820	(23,796)
4225	State Government Services	205,532.00	211,054	(5,522)
4250	Data Processing	85,296.00	110,632	(25,336)
4275	Publicity & Publications	55,374.00	574	54,800
4300 & 4315	Professional Services & IT Professional Services	178,828.00	219,843	(41,015)
4325	Attorney General Legal Fees	254,553.00	81,470	173,083
4375	Employee Recruitment	7,464.00	-	7,464
4400	Dues & Subscriptions	9,224.00	3,589	5,635
4425	Facilities Rent & Taxes	245,290.00	258,678	(13,388)
4475	Facilities Maintenance	4,354.00	31,171	(26,817)
4575	Agency Program Related S&S	39,796.00	250	39,546
4650	Other Services & Supplies	116,647.00	156,093	(39,446)
4700	Expendable Property \$250-\$5000	28,081.00	12,530	15,551
4715	IT Expendable Property	157,006.00	18,223	138,783
	Total Services & Supplies and Capital Outlay	1,660,486.00	1,332,929	327,557
	Totals	7,781,918.00	7,520,245	261,673

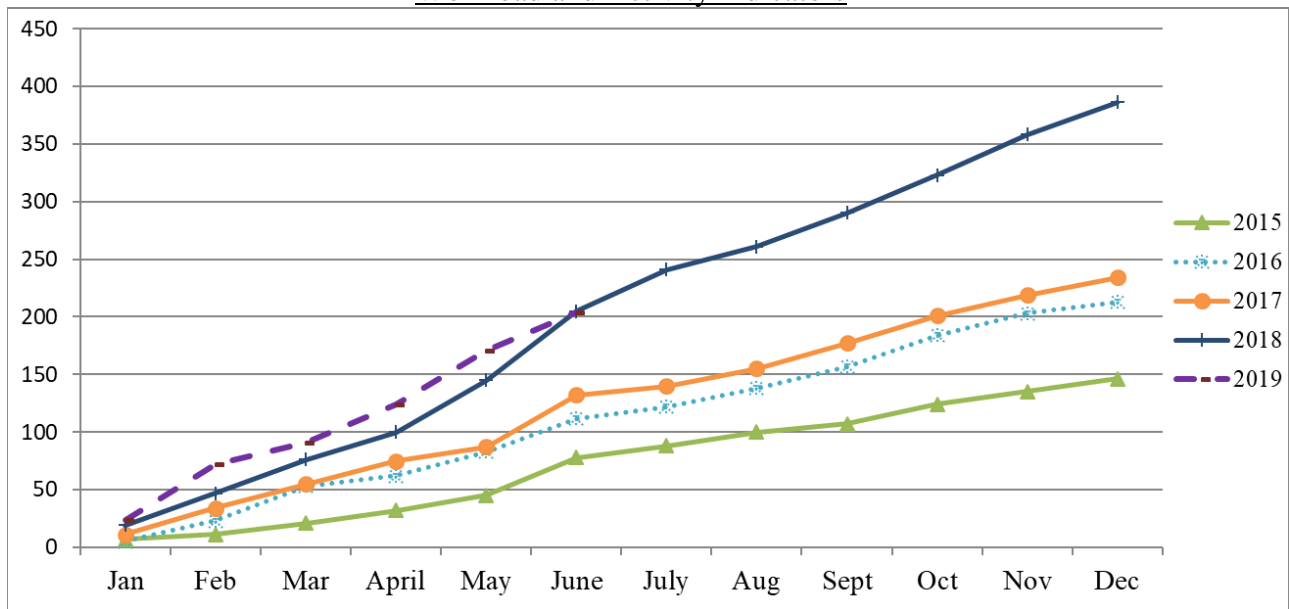
**Report to the Real Estate Board
Land Development Division
August 2019**

Division Manager: Michael Hanifin

Section Overview:

The Land Development Division reviews and approves filings related to condominiums, timeshares, subdivisions, manufactured home subdivisions, and membership campgrounds. The section reviews and approves the foundational documents creating these types of properties, as well as later amendments to those documents, to verify compliance with statutory requirements. We also issue the Disclosure Statement (sometimes referred to as a Public Report) required for sales of these interests to Oregonians. The Disclosure Statement summarizes key information about the condominium for the consumer, somewhat like the owner’s manual for a car.

Workload and Activity Indicators



Overall filing volume through end of June matches 2018 filings through the same timeframe (end of June, 2018).

Legislative Summary 2019 Regular Session

Agency Budget Bill

SB 5536 – The budget bill was signed into law April 10th, 2019. Effective date July 1st, 2019.

Agency Housekeeping Bill

HB 2275 - This is a minor housekeeping bill that clarifies in ORS 696.030(13) that vacation rentals are not subject to regulation. The clarification regarding vacation rentals is essentially removing the word “nonlicensed”, which we added inadvertently in our comprehensive cleanup of Chapter 696 during the 2017 session. No fiscal impact.

Status: Signed into law May 3rd, 2019. Effective January 1, 2020.

Industry/Public Concepts

HB 2485 –This concept is a reorganization and tightening up of the filing process for condominiums. As initially drafted for the 2017 session, this bill did not have substantive changes to law and focused on process and timing for filing requirements. This concept also modernizes Chapter 100 to facilitate future translation of the condominium filing process from paper to digital. No fiscal impact.

Status: Signed into law May 6th, 2019. Effective January 1, 2020.

HB 2486 - This bill relates to the requirement of condominium unit owners associations to file initial information reports and annual reports with the agency. As background, every association is supposed to file an initial information report with the agency after recording of the condominium. Thereafter, an annual report is filed with the agency. These report includes contact information for the chairperson, secretary, and agent. They must also be signed by two of the three, with one of them being the agent. This bill changes the signature requirements on these reports from two signatures to one and makes changes facilitating online filing of these reports. No fiscal impact.

Status: Passed by the House, passed by the Senate (with amendment) on May 16, moving back to the House for 3rd reading (tentatively scheduled for May 20th).

HB 2466 – This bill will require condominium associations to secure fidelity insurance under some circumstances. Impact on the Agency will be minimal, as we will simply have to look for provision for the insurance in the course of reviewing the bylaws. No fiscal impact on the Agency.

Status: Signed into law May 6th, 2019. Effective date January 1, 2020.