



Oregon

Tina Kotek, Governor

AGENDA ITEM NO.

I.C.

**Notice of Agency
OREGON REAL ESTATE BOARD
Regular Meeting Agenda
Video-Conference - Zoom
December 4, 2023**

Real Estate Agency
530 Center St. NE, Suite 100
Salem, Oregon 97301-2505
Phone: (503) 378-4170
www.oregon.gov/rea

- I. BOARD BUSINESS - Chair Gonzalez**
 - A. Call to Order
 - B. Chair Gonzalez comments/Roll Call
 - C. Approval of the Agenda and Order of Business
 - D. Approval of 10.02.23, regular meeting minutes
 - E. Date of the Next Meeting: 02.05.24 to begin at 10am, Location: TBD
- II. PUBLIC COMMENT - Chair Gonzalez**
 - 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 Gonzalez Waiver request log.**
 - A. None
- IV. PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER - Chair Gonzalez.**
 - A. None
- V. BOARD ADVICE/ACTION - Commissioner Strode**
 - A. 2024 Meeting Calendar & Locations
 1. February 5th, Online
 2. April 1st, Online
 3. June 3rd, Salem
 4. August 5th, Corvallis
 5. October 7th, Oregon Coast-TBD
 6. December 2nd, Online
- VI. NEW BUSINESS - Commissioner Strode**
 - A. 2024 Board Chair & Vice-Chair Nomination & Vote
 - B. Board Roles and Responsibilities
- VII. COMMUNICATIONS - ADMINISTRATIVE ACTIONS SUMMARY - Chair Gonzalez**
- VIII. REPORTS – Chair Gonzalez**
 - A. Commissioner Strode
 - B. Agency division reports-Deputy Commissioner Higley
 1. Regulations, Elli Kataura
 2. Land Development Division, Michael Hanifin
 3. Administrative Services, Mesheal Tracy
 4. Licensing and Education, Madeline Alvarado
 5. Compliance Division, Liz Hayes
- IX. ANNOUNCEMENTS – Chair Gonzalez.** Next board meeting: 02.05.24 to begin at 10am, Video Conference
- X. ADJOURNMENT – Chair Gonzalez**

Interpreter services, auxiliary aids for persons with disabilities, and access to attend remotely by videoconference are available upon advance request.



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OREGON REAL ESTATE BOARD
Regular Meeting Minutes
Riverhouse on the Deschutes, 3075 N Business 97, Bend
October 2, 2023
10:00 a.m.

BOARD MEMBERS PRESENT:

Jose Gonzalez
Susan Glen (remote)
Marie Due (remote)
Michael Warren
LaTasha Beal
Kim Hedding (remote)
Jessenia Juarez
Alex MacLean
Lawnae Hunter

BOARD MEMBERS ABSENT:

None

OREA STAFF PRESENT:

Steve Strode, Commissioner
Anna Higley, Deputy Commissioner
Madeline Alvarado, Licensing & Education Division Manager
Elli Kataura, Regulation Division Manager (remote)
Michael Hanifin, Land Development Manager (remote)
Liz Hayes, Compliance Division Manager

CITIZEN:

Alex MacLean IV

I. BOARD BUSINESS - Chair Gonzalez

- A. Call to Order
- B. Chair Gonzalez comments/Roll Call
- C. Approval of the Agenda and Order of Business

MOTION TO APPROVE 10.2.2023 REGULAR MEETING AGENDA AS SUBMITTED BY MICHAEL WARREN
SECONDED BY ALEX MACLEAN
MOTION CARRIED BY UNANIMOUS VOTE

- D. Approval of 8.7.23, regular meeting minutes

MOTION TO APPROVE 8.7.2023 REGULAR MEETING MINUTES AS SUBMITTED BY LAWNAE HUNTER
SECONDED BY MICHAEL WARREN
MOTION CARRIED BY UNANIMOUS VOTE

- E. Date of the Next Meeting: 12.4.23 to begin at 10am, Location: Video Conference

II. PUBLIC COMMENT - Chair Gonzalez

- A. None

III. REQUESTS FOR WAIVERS - Chair Gonzalez

- A. None

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

- A. Annamarie Kooning

MOTION TO APPROVE ANNAMARIE KOONING FOR CONTINUING EDUCATION PROVIDER BY LAWNAE HUNTER
SECONDED BY MICHAEL WARREN
MOTION CARRIED BY UNANIMOUS VOTE

- B. Cetan Funds, LLC

MOTION TO APPROVE CETAN FUNDS, LLC FOR CONTINUING EDUCATION PROVIDER BY ALEX MACLEAN
SECONDED BY MARIE DUE
MOTION CARRIED BY UNANIMOUS VOTE



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- V. BOARD ADVICE/ACTION - Commissioner Strode**
 - A. Rule Writing – Military Service Member Oregon Rule Alignment with SCRA Federal Regulations
- VI. NEW BUSINESS - Commissioner Strode**
 - A. None
- VII. COMMUNICATIONS - ADMINISTRATIVE ACTIONS SUMMARY - Chair Gonzalez**
- VIII. REPORTS – Chair Gonzalez**
 - A. Commissioner Strode
 - B. Agency division reports-Deputy Commissioner Higley
 - 1. Regulation Division, Elli Kataura
 - 2. Land Development Division, Michael Hanifin
 - 3. Licensing and Education Division, Madeline Alvarado
 - 4. Compliance Division, Liz Hayes
- IX. ANNOUNCEMENTS – Chair Gonzalez** Next board meeting: 10.02.23 to begin at 10am, Video Conference
- X. ADJOURNMENT – Chair Gonzalez**

Interpreter services, auxiliary aids for persons with disabilities, and access to attend remotely by videoconference are available upon advance request.

ROLES & RESPONSIBILITIES

Oregon Real Estate

December 4, 2023



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Board Structure

Board members are appointed by the Governor for four-year terms and are subject to a two-term limit. The Board consists of seven industry members and two public members.

The Board meets every other month. Each year, the Board selects a member as chairperson.

A majority of the Board constitutes a quorum for conducting Board business.

Duties

The Board's statutory duties include:

- Advising the Governor and the Real Estate Commissioner on real estate industry matters that affect real estate licensees and consumers.
- Reviewing proposed administrative rules.
- Making recommendations to the Oregon Real Estate Agency about the manner and method for conducting examinations.
- Approving the Law and Rule Required Course.
- Reviewing and approving experience waiver requests for license applicants.
- Approving the qualifications of continuing education provider applicants who don't otherwise qualify under statute.

The Board works with the Agency to achieve the Agency's mission.

"The mission of the Oregon Real Estate Agency is to provide quality protection for Oregon consumers of real estate, escrow, and land development services, balanced with a professional environment conducive to a healthy market atmosphere."

Authority

Some of the basic operating rules in state government are different from those in the private sector. One of these rules relates to authority.

A private citizen may do anything the law does not prohibit.

However, a board or agency may only do what the law authorizes. ([See Oregon Revised Statute chapter 696](#)).

Law Structure

Public officials and boards get their authority from statutes, administrative rules, policies, and procedures.

- Oregon Revised Statutes are laws passed by the legislature. They must be followed by the people and institutions under their jurisdiction. Statutes are the umbrella laws for all rules, policies, and procedures. Statutes are state laws which define what public agencies must do, can do, and cannot do.
- Oregon Administrative Rules further articulate the statutes and provide additional guidance to boards. OARs are written or adopted by state agencies to provide guidelines or process requirements for actions impacting the public. Rules may be more restrictive than statutes, but not more lenient.
- Policies and procedures are guidelines to assist internal operations of the individual board.

Key Agencies

These agencies may affect your board and they also provide some support services.

DEPARTMENT OF ADMINISTRATIVE SERVICES

The Director of DAS, who also serves as the State Chief Operating Officer, is appointed by the Governor. DAS was established to administer the Governor's programs and to provide policy direction and support services to agencies. Most state agencies report to the Governor through the DAS Director.

DEPARTMENT OF JUSTICE

DOJ is the state's law firm, headed by the attorney general. DOJ provides most of the same services as do private law firms, but with a few important differences. By statute, the attorney general and lawyers within DOJ are the sole providers of legal advice and representation to agencies and officials.

DOJ acts as a legal adviser at meetings, and is an advocate for the state in hearings, trials and appeals. Each agency is assigned at least one assistant attorney general who specializes in the area of law affecting the agency. DOJ helps identify any legal problems posed by existing or proposed agency policies or actions.

SECRETARY OF STATE

The Secretary of State is an elected official who serves as the state's chief elections and public records officer, the auditor of public accounts and the administrator of the state archives.

There are two divisions within the Secretary of State's office. The Audits Division performs fiscal, performance, and compliance audits of all agencies. The Archives Division preserves permanent government records and establishes retention schedules for public records of all agencies.

GOVERNOR'S OFFICE

Most agencies are relatively independent within their areas of responsibility. Overall policy guidance and direction are provided by the governor, as the state's chief executive officer, and by the legislature, which writes laws and appropriates operating funds. To provide an overall management structure, the governor uses DAS.

The governor coordinates the activities of agencies; actively participates in the design, development, and approval of state agency budgets; appoints many agency directors, board members and other officials; and approves or disapproves all legislation affecting agencies.

Board activities are subject to both legislative and executive oversight. Actions by the governor and the legislature may result in revision of a board's authority or changes in appropriations.

Budget Overview

Oregon's budget is a tool to carry out the state's law and policy decisions. It allocates the state's general fund, federal funds, and other funds.

The budget also sets limits on other types of revenues and state positions. Oregon's budget must be balanced.

Each agency's budget is called an appropriations bill which authorizes the budget, specifies the maximum amount a board can spend, and allows the agency to spend money.

The budget covers two fiscal years, which is called a biennium. The budget runs from July 1 of an odd-numbered year to June 30 of the next odd-numbered year.

The Joint Committee on Ways and Means conducts hearings and receives testimony on the Governor's Recommended Budget.

The budget is then reviewed, debated, and eventually approved by both houses of the legislature and approved by the Governor. Upon signature or effective date, the budget bill becomes law.

FUNDING TYPES

A budget specifies the maximum amount an agency can spend. An agencies revenue comes primarily from three sources:

- The general fund is primarily from taxes and fees. General fund money is typically used for programs dealing with health, education, public welfare, correctional institutions, legislative and judicial functions, general governmental administrative functions, or for programs without a dedicated revenue source.
- Some agencies are funded in whole or in part by federal funds.
- Most agencies get their funds from other funds which come from fees, tuition, or sales of services or commodities.

The Oregon Real Estate Agency's funds come from application, license, and registration fees, so it is considered an "other funded" agency. Regardless of revenue source, authority for all expenditures rests with the legislature.

BUDGETING PROCESS

The budget process starts early in even-numbered years to develop the agency request budget. This lays out finances and policies for consideration. Agencies send their budget request to the Chief Financial Office by September 1.

The governor and the CFO review the budget request. They use the governor's priorities, budget policies and current law to make budget decisions. The governor's recommended budget document summarizes those decisions. It gives data on all the state's revenues, expenditures, and information on each agency's budget.

The governor presents the recommended budget to the legislature when it meets at the start of the next calendar year. Legislative committees review the proposed budget. They hold public hearings to hear from each agency and the public. Each budget bill has a budget report presenting the committee recommendations. The legislature votes on each budget bill. The budget bills enacted into law make up the legislatively adopted budget. Agencies carry out, or execute, the budget over the two-year budget period.

Rulemaking

The Administrative Procedures Act defines a rule as any agency directive, standard, or statement of general applicability that implements, interprets or prescribes law or policy.

Rulemaking is required:

- When an agency must interpret its governing statutes, prescribe procedures, or articulate policy decisions.
- When an agency's enabling legislation does not tell the agency and the persons subject to the law what to do, or when and how to do it.
- And when a statute specifically requires rulemaking.

There are times when the need to have a rule in effect within a particular timeline makes it impossible for an agency to comply with all of the public notice and comment requirements. An agency may adopt, amend or suspend a rule without prior or limited notice or a hearing if it meets the requirements outlined in

ORS 183.335. The temporary rule is only valid for 180 days and cannot be re-adopted.

Typically, an agency should set all policy affecting the public through rulemaking.

RULEMAKING PROCESS

When an agency is adopting, amending, or repealing an administrative rule the following process must be followed.

Step 1 - Notice

The agency must give notice of its intended action. The notice of proposed rulemaking must be given in four ways:

- In a manner established by the agency's notice rule;
- By publication in the Secretary of State's bulletin;
- By mail to individuals who request notice; and
- To certain legislators.

The notice must state the subject matter and purpose of the new or amended rule in sufficient detail to inform a person that the person's interests may be affected. The notice must state the time, place, and way an interested person may comment on the rule to the board.

Step 2 - Opportunity for Public Comment or Hearing

Interested persons must have reasonable opportunity to submit comments on the proposed rule.

When the agency receives all the comments, they need to be put in the official rulemaking record. Comments need to be seriously considered, but the agency does not need to respond to comments unless required to do so by law.

Step 3 - Adoption and Filing

The agency may adopt the rule only after fully considering all data and views presented. The final rule does not need to be identical to the proposed rule. There is no set timeline for when the rule must be adopted after the end of the comment period.

The agency must file a Certificate of Filing signed by someone with rulemaking authority and then file it electronically with the Secretary of State. Within 10 days after filing the rule with the Secretary of State, the agency must file a copy with the Legislative Counsel.

The legislative counsel may review a proposed or adopted rule of a board either on its own initiative, or upon request of any person affected by the rule, or when requested by any member of the legislature.

Every Agency must review all its new rules within five years of adoption. The review must include an analysis of whether the rule had its intended effect, whether the fiscal impact was under or overestimated, whether the rule remains consistent with the law, and whether the rule is still needed.

Rules are subject to review by Oregon's courts.

Public Records & Meetings

Oregon enacted the public records and public meetings laws in 1973. These laws reflect the legislature's policy choice that the public is entitled to know how the government's business is conducted.

The public records law advances this policy by requiring public bodies to retain records and by granting the public a broad right to examine records created, maintained, cared for or controlled by public bodies. The public meetings law does so by opening to the public many public bodies' information gathering and decision-making processes.

ORS 192.410(4) states public records include any writing containing information relating to the conduct of the public's business prepared, owned, used or retained by a public body regardless of physical form or characteristics.

The term "writing" is broadly defined in ORS 192.410(6) as including every type of documentation. For instance, handwritten documents, photographs, computer discs, emails, instant messages, text messages, etc. Even after electronic

records are deleted, they continue to exist on computer back-ups which are still public records.

Emails are public records even if sent or received on a personal email account. As a board member, you are highly encouraged to create a separate email account to use for conducting your board communications.

Most public records are subject to disclosure, but there are exemptions. If a public body claims an exemption, it must show the need for confidentiality outweighs the public interest.

PUBLIC MEETINGS

Oregon's public meetings law serves two purposes:

- To provide a means by which the public can be informed about the deliberations and decisions of state government; and
- To ensure governing bodies in Oregon have an open decision-making process.

Except for executive sessions, any member of the public may attend any public meeting.

The public meetings law applies to state and local government "governing bodies" of "public bodies."

"Governing body" means the members of any public body consisting of two or more members with authority:

- To make decisions for a public body on policy or administration, or
- To make recommendations to a public body on policy or administration.

"Public body" includes the state, cities, counties, districts, boards, commissions, committees, subcommittees, advisory groups, and similar bodies. It does not include individual agency heads.

A meeting is a convening of a governing body for which a *quorum is required* to make a decision or deliberate toward a decision. A public meeting can include:

- Information-gathering sessions, except for on-site inspections, and attendance at association meetings.

- Working lunches, but not purely private social gatherings at which no official business is discussed.
- Electronic meetings.

In a recent opinion, the Court of Appeals held that serial communications among a quorum of a governing body, even if conducted through an intermediary, can constitute a “meeting” for purposes of the public meetings law.

There are four basic requirements for conducting a public meeting:

1. Advance notice must be provided to interested parties of meetings, location, and the main subjects.
2. Meetings must be open to public attendance, unless it’s an executive session.
3. The meeting must be recorded or written minutes must be made.
4. Votes must be cast publicly and recorded.

EXECUTIVE SESSIONS

A meeting can be closed to the public if a governing body goes into executive session. The law governing executive sessions is designed to allow a public body to have confidential discussions but does not allow any decisions to be made in secret. All decisions by a governing body must be made in public. Journalists may attend most executive sessions but cannot report or broadcast what was said.

The presiding officer must publicly announce the statutory authority or lawful basis for holding the executive session prior to convening the executive session. Topics not covered by one of the stated reasons for the executive session cannot be discussed.

Examples of topics that may be discussed in an executive session include labor negotiations, legal counsel, hiring, disciplining, or firing a public employee.

PARLIAMENTARY PROCEDURE

Parliamentary Procedure is a set of rules for conduct at meetings allowing everyone to be heard and to make decisions. Part of any meeting should be a systematic plan for the orderly conduct of business. The sequence in which

business is taken up during a meeting is known as the “Order of Business.” The Order of Business is a blueprint for the meeting.

Stipends & Travel

Board members are eligible to receive a stipend for attending regular board meetings and other official board activities. In addition, board members may be eligible for travel and meal reimbursements.

Stipends are outlined in state law and can vary for each board. For travel, the General Services Administration (GSA) publishes annual per diem rates for meals, lodging, and mileage.

Board members who travel on business for the state must follow the policies set forth by the GSA, the Oregon Accounting Manual, the state travel policy, and any internal travel policies. Contact your board administration for more information.

Annual Required Training

As a public official, board members are required to complete two courses each year:

- Preventing Harassment and Discrimination
- Information Security Training: Foundations

The training is completed in Workday. In order to access Workday, board members must download a multifactor authentication application on to their personal smart phone. Contact the Board Administrator for more information.

Applicable Statutes and Rules

OREGON REVISED STATUTE CHAPTER 696

ORS 696.022 Licensing system for real estate brokers and property managers; rules.

(1) The Real Estate Agency shall establish by rule a system for licensing real estate brokers, principal real estate brokers and licensed real estate property managers. The system shall establish, at a minimum:

- (a) The form and content of applications for licensing under each category of real estate professional licensed by the agency;
- (b) A licensing examination for each category of license;
- (c) Schedules and procedures for issuing and renewing licenses, including limited licenses under ORS 696.125; and
- (d) The term of a license in each category.

(2)(a) A real estate broker may engage in professional real estate activity only if the broker is associated with and supervised by a principal real estate broker. Except as provided in paragraph (c) of this subsection, a real estate broker may not employ, engage or supervise the professional real estate activity of another real estate licensee.

(b) For an applicant to qualify for a real estate broker's license, the Real Estate Commissioner must receive:

(A) Certification by the applicant that the applicant has a high school diploma or a certificate for passing an approved high school equivalency test such as the General Educational Development (GED) test or the international equivalent, or other equivalent education acceptable to the commissioner;

(B) Proof that the applicant:

(i) Has successfully completed the basic real estate broker's educational courses required by the agency by rule; and

(ii) Has passed the real estate broker's examination required by the agency by rule; and

(C) Certification that the applicant is at least 18 years of age.

(c) A real estate broker who has acquired three years of active experience as a real estate broker may supervise for up to 90 days the professional real estate activity of another real estate licensee due to unforeseen circumstances or the temporary absence of a sole principal real estate broker, as provided by the agency by rule.

(3)(a) A principal real estate broker may engage in professional real estate activity.

(b) A principal real estate broker may conduct professional real estate activity in conjunction with other real estate brokers, principal real estate brokers or licensed real estate property managers. A principal real estate broker may employ, engage or supervise the professional real estate activity of another real estate licensee.

(c) For an applicant to qualify for a principal real estate broker's license, the commissioner must receive:

(A) Certification by the applicant that the applicant has a high school diploma or a certificate for passing an approved high school equivalency test such as the General Educational Development (GED) test or the international equivalent, or other equivalent education acceptable to the commissioner;

(B) Proof that the applicant:

(i) Has three years of active licensed experience as a licensed real estate broker or a licensed real estate salesperson in this state or another state;

(ii) Has passed the principal real estate broker's examination required by the agency by rule; and

(iii) Has successfully completed the brokerage administration and sales supervision course required by the agency by rule; and

(C) Certification that the applicant is at least 18 years of age.

(4)(a) An individual who holds a real estate property manager license may engage only in the management of rental real estate under a property management agreement with the owner of the rental real estate.

(b) A licensed real estate property manager may employ, engage or supervise the professional real estate activity of another licensed real estate property manager.

(c) For an applicant to qualify for a real estate property manager's license, the commissioner must receive:

(A) Certification by the applicant that the applicant has a high school diploma or a certificate for passing an approved high school equivalency test such as the General Educational Development (GED) test or the international equivalent, or other equivalent education acceptable to the commissioner;

(B) Proof that the applicant:

(i) Has successfully completed the basic real estate property manager's educational courses required by the agency by rule; and

(ii) Has passed the real estate property manager's license examination required by the agency by rule; and

(C) Certification that the applicant is at least 18 years of age.

(5)(a) A license for a real estate broker, principal real estate broker or licensed real estate property manager may be granted only to an individual who is trustworthy and competent to conduct professional real estate activity in a manner that protects the public interest. As a condition of licensing, the commissioner may require proof of competence and trustworthiness that the commissioner deems necessary to protect the public interest.

(b) In implementing this subsection, the commissioner shall require fingerprints and criminal offender information of an applicant for initial licensing and may require fingerprints and criminal offender information of an applicant for license renewal. Fingerprints acquired

under this subsection may be used for the purpose of requesting a state or nationwide criminal records check under ORS 181A.195.

(6) An individual licensed to engage in professional real estate activity in another state or country may qualify for a principal real estate broker license, real estate broker license or real estate property manager license if the individual successfully completes the course of study for and passes the license examination corresponding to the license for which the individual applies, both as prescribed by agency rule, and if the individual meets the other requirements for licensure in this chapter.

(7) In order to satisfy the educational requirements under subsections (2) to (4) and (6) of this section, a course must be approved by the commissioner. The commissioner shall determine the final examination score acceptable as evidence of successful completion for each required course.

(8) The Real Estate Board may determine that an applicant for a principal real estate broker's license has experience related to professional real estate activity that is equivalent to the experience required under subsection (3) of this section.

ORS 696.174 License renewal; reactivation; continuing education courses; rules.

(1) To renew an active license or to reactivate a license for the first time since the license was renewed to an inactive status, a real estate licensee must complete 30 hours of real estate continuing education courses that are eligible for credit under ORS 696.182 during the two years preceding the renewal or reactivation. The 30 hours must include:

(a) At least three hours in a course approved by the Real Estate Board on state and federal fair housing laws and recent changes in real estate rule and law; and

(b)(A) If the real estate broker is renewing an active license for the first time or reactivating a license for the first time since renewing the license to an inactive status, an advanced course in real estate practices approved by the Real Estate Agency;

(B) If a licensed real estate property manager is renewing an active license for the first time or reactivating a license for the first time since renewing the license to an inactive status, an advanced course in property management practices approved by the agency; or

(C) If a principal real estate broker is renewing an active license for the first time or reactivating a license for the first time since renewing the license to an inactive status, an advanced course in brokerage practices approved by the agency.

(2) The agency, in consultation with real estate professionals and educators, shall develop a reporting format to ensure that a real estate licensee has completed the number of hours required by subsection (1) of this section. The reporting format must include:

(a) The date, name and length of time of each course attended;

(b) The name of the real estate continuing education provider that offered the course;

- (c) The name of the instructor who taught the course; and
- (d) Any other information that the agency requires by rule.

(3) The agency may waive any portion of the requirements of this section for a real estate licensee who submits satisfactory evidence that poor health or other circumstances beyond the real estate licensee's control prevented the real estate licensee from attending part or all of the continuing education courses required by subsection (1) of this section.

ORS 696.182 Continuing education; rules.

(1) The Real Estate Agency, with advice from real estate professionals and educators, shall establish by rule a system for certification and renewal of real estate continuing education providers.

(2) The agency shall include in the rules that an applicant for certification under this section must be:

- (a) A main office or branch office, with a registered business name as provided under ORS 696.026, of a licensed real estate property manager or principal real estate broker;
- (b) A licensed title or escrow company conducting business in this state;
- (c) A real estate trade association or a trade association in a related field;
- (d) A real estate multiple listing service;
- (e) An attorney who is an active member of the Oregon State Bar;
- (f) A law firm, in which at least one of the attorneys associated with the law firm is an active member of the Oregon State Bar;
- (g) A private career school licensed by the Higher Education Coordinating Commission and approved by the agency to provide the basic real estate broker's or property manager's educational courses required under ORS 696.022;
- (h) An accredited community college, an accredited public university listed in ORS 352.002 or a private and independent institution of higher education as defined in ORS 350.635;
- (i) A distance learning provider as provided by rule of the agency; or
- (j) **Another provider approved by the Real Estate Board.**

(3) The Real Estate Agency may provide continuing education without being certified under this section.

(4) The agency, in consultation with real estate professionals and educators, shall provide by rule:

- (a) A broad list of course topics that are eligible for continuing education credit required by ORS 696.174; and
- (b) Learning objectives for each course topic.

(5) The list of course topics developed by the agency under subsection (4) of this section must allow for changes in the real estate profession.

(6) The minimum length of each course is one hour. A continuing education provider or course instructor may allow a break of no more than 10 minutes for each hour of instruction.

ORS 696.385 Power of agency; rulemaking procedures.

The Real Estate Agency shall have the power to:

- (1) Adopt a seal by which it shall authenticate its proceedings.
- (2) From time to time, circulate among the real estate licensees of Oregon any material that the agency may deem helpful or educational or proper for the guidance and welfare of the real estate licensees.
- (3) Make and enforce rules as necessary to administer and enforce the provisions of, and enforce and discharge the duties defined in, any law with the administration or enforcement of which the agency is charged.
- (4) Except as provided in subsection (5) of this section, when the agency proposes to adopt, amend or repeal a rule concerning real estate licensees, the agency shall:
 - (a) Submit a copy of the proposed rule to the Real Estate Board at least 10 days prior to publication of the notice of intended action required under ORS 183.335 for the rule.
 - (b) Consider any recommendations that the board, by majority vote, makes concerning the proposed rule.
 - (c) Publish as part of the statement of need in the matters any written comments submitted by the board for publication under paragraph (b) of this subsection.
- (5) Subsection (4) of this section does not apply to a temporary rule that is adopted, amended or suspended pursuant to ORS 183.335 (5). However, the agency shall submit to the board a copy of any proposed temporary rule as soon as practicable and, to the extent possible under the circumstances, consider any recommendations that the board may make by majority vote regarding the temporary rule.

ORS 696.405 Real Estate Board; appointment; term; qualifications; compensation; expenses.

- (1) The Real Estate Board is established within the Real Estate Agency. The board shall consist of nine members appointed by the Governor to hold office for a period of four years, but to serve at the pleasure of the Governor. Seven members of the board appointed by the Governor must have been, before the date of their appointment, real estate licensees actively engaged for five years in professional real estate activity in this state. Two members to be appointed by the Governor shall not be real estate licensees or have been connected with, or employed by, the Real Estate Agency or a predecessor thereof. In case of a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(2) A member of the board is entitled to compensation or expenses as provided in ORS 292.495.

ORS 696.415 Officers; meetings; quorum.

(1) The Real Estate Board shall annually select one of its members as chairperson, who shall preside at the meetings of the board. In the absence of the chairperson some other member of the board may serve as chairperson. The board shall meet at such times and places as determined by the board and may also meet upon call of the chairperson.

(2) A majority of the board shall constitute a quorum for the transaction of business. A vacancy on the board shall not impair the right of the remaining members to perform all the duties and exercise all the functions and authority of the board.

ORS 696.425 Powers and duties of board; expenses.

(1) The Real Estate Board is authorized to inquire into the needs of the real estate licensees of Oregon, the functions of the Real Estate Agency and the matter of the business policy thereof, to confer with and advise the Governor as to how the agency may best serve the state and the licensees, and to make recommendations and suggestions of policy to the agency as the board may deem beneficial and proper for the welfare and progress of the licensees and of the public and of the real estate business in Oregon.

(2) The board shall make recommendations to the agency about the manner and methods for conducting examinations.

(3) The board shall create or approve a real estate continuing education course for real estate licensees based on recent changes in real estate rule and law.

(4) The expenses of the board shall be paid from moneys available to the agency for payment of administrative expenses relating to the real estate activities of the agency.

OREGON ADMINISTRATIVE RULES CHAPTER 863

OAR 863-014-0042 Waiver of Experience Requirements

(1) If an applicant for a principal real estate broker's license has met all requirements for such license except for the experience requirement, the applicant may petition the Real Estate Board for a waiver of the three-year experience requirement contained in ORS 696.022, and 863-014-0040. The petition must contain sufficient information to allow the Board to determine whether the applicant qualifies for a waiver as allowed by this rule.

(2) The applicant must file a petition to waive the experience requirement on an Agency-approved form with the Agency no later than 21 days before the scheduled Real Estate Board meeting at which the applicant wishes the Board to act.

(3) The Board may issue a waiver if the applicant:

(a) Has graduated from a four-year college or university with a degree in real estate in a curriculum approved by the Commissioner, and the applicant has held an active license as a real estate broker for a period of at least one year; or

(b) Has a two-year community college associate degree in real estate in a curriculum approved by the Commissioner, has held an active license as a real estate broker for a period of at least two years and, if the applicant is applying for a principal real estate broker license, the applicant has completed the course of study for principal real estate brokers as required by OAR 863-014-0040; or

(c) Has had real estate-related experience equivalent to at least three years of active experience as a real estate licensee and provides written details about the nature of such experience.

OAR 863-020-0010 License Renewal Continuing Education Requirement

(1) This rule applies to all real estate licensees.

(2) To renew an active license, a real estate licensee must provide course information in an online renewal application which demonstrates that the licensee:

(a) Has completed at least 27 hours of real estate continuing education that are eligible for credit under OAR 863-020-0035 and 863-020-0040 during the two years preceding renewal and,

(b) Has completed the Board-approved Law and Rule Required Course described in OAR 863-022-0055.

(3) To renew an active license for the first time or before the first license reactivation following an inactive first renewal, a real estate broker, a principal real estate broker, or a licensed real estate property manager must provide course information in the online renewal or reactivation application which demonstrates compliance with the following:

(a) A real estate broker must complete the 27-hour broker advanced practices course described in OAR 863-022-0020. A real estate broker must also take the Law and Rule Required Course described in OAR 863-022-0055.

(b) A principal real estate broker must complete the 27-hour principal broker advanced practices course described in OAR 863-022-0021. A principal real estate broker must also take the Law and Rule Required Course described in OAR 863-022-0055.

(c) A licensed real estate property manager must complete the 27-hour property manager advanced practices course described in OAR 863-022-0022. A licensed real estate property manager must also take the Law and Rule Required Course described in OAR 863-022-0055.

(4) A real estate licensee will not be given credit for repeating a continuing education course with the same content during a two-year renewal period.

(5) A licensee who falsely certifies that the licensee has completed the required continuing education violates section (2) of this rule and is subject to discipline under ORS 696.301.

OAR 863-020-0020 Continuing Education Qualifications

(1) An applicant for certification as a continuing education provider must be one of the following:

(a) A main or branch office with a registered business name registered with the Agency under ORS 696.026 and OAR 863-014-0095 or 863-024-0095;

(b) A licensed title or escrow company conducting business in this state;

(c) A real estate trade association as defined in section (2) of this rule or a trade association in a related field as defined in section (3) of this rule, but not the individual members of those associations;

(d) A real estate multiple listing service;

(e) An attorney who is an active member of the Oregon State Bar;

(f) A law firm, in which at least one of the attorneys associated with the law firm is an active member of the Oregon State Bar;

(g) A private career school approved by the Agency to teach continuing education courses as defined in section (4) of this rule;

(h) An accredited community college, an accredited public university listed in ORS 352.002, or a private and independent institution of higher education as defined in 352.720

(i) A distance learning provider approved by the Agency as defined in section (5) of this rule; or

(j) A person who does not meet the requirements of section (1)(a) through (h) of this rule but whose qualifications have been approved by the Real Estate Board under OAR 863-020-0025.

(2) "Real estate trade association," as used in section (1) of this rule, means a local, state, regional, or national organization with members that include real estate licensees, licensed escrow agents, or licensed title companies.

(3) "Trade association in a related field," as used in section (1) of this rule, means a local, state, regional, or national organization with members that include licensed, certified, or registered:

(a) Appraisers,

(b) Architects,

- (c) Attorneys,
- (d) Contractors,
- (e) Home inspectors,
- (f) Mortgage bankers,
- (g) Mortgage brokers,
- (h) Professional engineers,
- (i) Securities broker-dealers or salespersons,
- (j) Surveyors, or
- (k) Tax professionals.

(4) “Private career school approved by the Agency to teach continuing education courses,” as used in section (1) of this rule, means a private career school licensed by the Department of Education and approved by the Agency to provide the basic real estate broker or property manager educational courses required under ORS 696.022.

(5) “Distance learning provider approved by the Agency,” as used in section (1) of this rule, means a person whose course has been certified by the Association of Real Estate License Law Officials.

OAR 863-020-0025 Board Approval of Continuing Education Provider

Qualification

(1) A person not otherwise qualified under OAR 863-020-0020(1)(a) through (h) seeking the Board’s approval as an applicant for certification must petition the Board under this rule.

(2) The person must submit a petition for approval to the Agency on an Agency-approved form at least 21 days before the scheduled Board meeting at which the applicant wishes the Board to act. The petition must include the following:

(a) The petitioner’s name, address, and phone number.

(b) Sufficient information about the petitioner named in the application to allow the Board to determine whether the petitioner qualifies for certification, including specifics about one or both of the following:

(A) Petitioner’s demonstrated expertise and experience in providing educational courses to real estate licensees;

(B) Petitioner’s demonstrated experience and expertise in at least two course topics eligible for continuing education credit under OAR 863-020-0035(4)(a)-(gg).

(c) Attestation by the petitioner that the petitioner knows and understands:

(A) The responsibilities of a continuing education provider under OAR 863-020-0050;

(B) The requirements of an instructor under ORS 696.186 and the information required on a continuing education instructor form under OAR 863-020-0060.

(3) The Agency will notify the petitioner stating the Board's determination. If the Board approves the petition, the petitioner may apply for certification as a course provider under OAR 863-020-0030.

ADMINISTRATIVE ACTIONS

Reported 09/15/2023
through 11/07/2023

REVOCATIONS

Doster, Rhiann Nicole (Milwaukie), Property Manager 200901058, Final Order by Default dated October 5, 2023, issuing a revocation and \$10,000.00 civil penalty.

SUSPENSIONS

None.

REPRIMANDS

Johnson, Samuel. Property Manager 201213921, Stipulated Final Order dated September 22, 2023, issuing a reprimand with education.

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

Ingram, Samantha, Broker B.201229659, Stipulated Order dated October 24, 2023, issuing a \$1,000 civil penalty.

Timeshare Escrow, Inc, Escrow Agent EA.200012006, Stipulated Order dated November 8, 2023, issuing a \$1,000.00 civil penalty.

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of

RHIANN NICOLE DOSTER

FINAL ORDER BY DEFAULT

PROCEDURAL HISTORY AND PROCEDURAL LAW

1.

1.1 On August 30, 2023, the Real Estate Commissioner issued, by certified mail, a *Notice of Intent to Revoke License No. PM.200901058 and to Assess a Civil Penalty* the real estate property manager license of Rhiann Doster (Doster). The Oregon Real Estate Agency (Agency) sent the Notice of Intent to Doster’s two last known addresses of record with the Agency (10673 SE 21st Avenue, Milwaukie, OR 97222 and PO Box 16610, Portland, OR 97292). The *Notice of Intent* was also mailed to Doster by regular first-class mail to both of the above addresses in a handwritten envelope. And *The Notice of Intent* was emailed to Doster at her email address of record.

1.2 The email was not returned as undeliverable.

1.3 On September 6, 2023, the Agency received the certified return receipt from the August 30, 2023, mailing to 10673 SE 21st Avenue, Milwaukie, OR 97222. The receipt showed a delivery date of September 2, 2023, and was signed by Doster. Neither the certified mailing to PO Box 16610, Portland, OR 97292 nor the first-class mailings have been returned to the Agency. Over twenty days (20 days) have elapsed since the mailing of the notice issued in this matter and no written request for hearing has been received by the Agency.

2.

Based upon the foregoing, and upon the Agency’s investigation reports, documents and files that, pursuant to Section 9 of the *Notice of Intent*, automatically become part of the

evidentiary record of this disciplinary action upon default (for the purpose of proving a prima facie case (ORS 183.417(4)), the Real Estate Commissioner finds:

2.1 A notice of intent is properly served when deposited in the United States mail, registered or certified mail, and addressed to the real estate licensee at the licensee's last known address of record with OREA. (ORS 183.415(2); OAR 137-003-0505; OAR 863-001-0006. If correctly addressed, such a notice is effective even though it is not received by the person to be notified. *Stroh v. SAIF*, 261 OR 117, 492 P2d 472 (1972) (footnote 3 in this case misquotes the cited treatise and contradicts the text of the opinion; treatise and cited case law support the proposition stated in the text.) Also, notice is effective even though the addressee fails or refuses to respond to a postal service "mail arrival notice" that indicates that certified or registered mail is being held at the post office. *See State v. DeMello*, 300 Or App 590, 716 P2d 732 (1986) (discussing use of certified mail to effectuate notice of driver's license suspension under ORS 482.570). *See also El Rio Nilo, LLC v. OLCC*, 240 Or App 362, 246 P3d 508 (2011) (Notice by certified mail effective even though addressee did not pick up in time to file request for hearing timely).(Oregon Attorney General's Administrative Law Manual and Uniform Model Rules Of Procedure Under the Administrative Procedures 2019 Edition at pages 97-98.

2.2 Doster's last known address of record with the Agency was 10673 SE 21st Avenue, Milwaukie, OR 97222.

2.3 A certified mailing of the *Notice of Intent* was mailed to Doster at her last known address of record on August 30, 2023. The Notice of Intent was received at Doster's address of record on September 2, 2023.

2.4 The notice was mailed certified to another possible address for Doster at PO Box 16610, Portland, OR 97292. This certified mailing has not been returned to the Agency.

2.5 The notice was also mailed regular first-class mail in a handwritten envelope to both of the above possible addresses for Doster. The mailings in the handwritten envelope have not been returned to OREA. The OAH Rules contain a rebuttable presumption that documents sent by regular mail are received by the addressee. ORS 137-003-0520(10). If the regularly mailed notice is actually received, it is effective on the date received, rather than the date of mailing.

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

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

2.8 As noted in section 9 of the *Notice of Intent to Revoke License No. PM.200901058 and to Assess a Civil Penalty*, and section 2 above, the Agency's entire investigation file was designated as the record for purposes of presenting a prima facie case upon default, including submissions from Doster and all information in the administrative file relating to the mailing of notices and any responses received.

FINDINGS OF FACT

3.

3.1 At all times mentioned herein, Doster was licensed as a property manager with Portland's Premier Property Management LLC (PPPM).

3.2 On May 17, 2023, as part of related case 2023-198, Agency Investigator Dylan Ray (Ray) sent an email to Doster, requesting records. Doster was given a deadline of May 24, 2023, to provide the records to the Agency.

3.3 On May 24, 2023, Ray sent a second email to Doster requesting the records, as no response had been received. Ray also left a voicemail with Doster requesting cooperation.

3.4 On May 30, 2023, Ray sent a third email to Doster requesting the records, as no response had been received. A voicemail was also left with Doster.

3.5 On June 6, 2023, the Agency opened an investigation on Doster due to failure to provide records upon request.

3.6 On June 7, 2023, Ray sent a fourth email to Doster requesting the records needed in the related case. Ray also left Doster a voicemail.

3.7 Ray did not receive a response or any communication from Doster.

(1) Violation: By failing to produce property management records within five days of the request, Doster violated ORS 696.301(3) as it incorporates OAR 863-025-0035(2)(a)(b)(c) (1/1/2023 Edition). OAR 863-025-0035(2)(a)(b)(c) states: a property manager must produce records for inspection of the Agency (a) when the Agency makes a request for production of property management records, the property manager must provide such records within no less than five banking days; (b) if the Agency has reasonable grounds to believe that funds of an owner or tenant may be missing or misappropriated or that the property manager is engaging in fraudulent activity, any records demanded or requested by the Agency must be produced immediately; and (c) failure to produce such records within the timelines stated in OAR 863-025-0035(2)(a) or (b) of this section is a violation of ORS 696.301.

3.8 In a review of bank statements received from the Milwaukie Police Department in the related case, it was identified that Doster authorized checks payable to PPPM, that on the owner's ledgers showed payable to Wagoner's Construction LLC (Wagoner's).

3.9 Owner's ledgers were received from the complainant in the related case.

3.10 On the owner ledger labeled "BUTOMAPL – 8777 SW Maple Court, Tigard, OR 97223," the payee is shown as Wagoner's for check #8869, in the amount of \$1,405.00, and dated January 9, 2023. The check was identified with a description of "General Maintenance Labor, Inc. 0032 – Past Due – Exterior Repairs Water Damage Re."

3.11 A copy of check #8869 shows the same amount and date listed in the owner ledger, but the payee is identified as PPPM.

3.12 Check #8869 was signed by Doster.

3.13 On the owner ledger labeled "BUTOSEPT – 17608 SW September Lane, Beaverton, OR 97006," the payee is shown as Wagoner's for check #8682, in the amount of \$1,260.00, and dated October 18, 2022. The check was identified with a description of "General Maintenance Labor – Inv0113; HOA Repairs, Reduce Trip Hazards to 1" , Remo...".

3.14 A copy of check #8682 shows the same date as listed in the owner ledger, but the payee is identified as PPPM in the amount of \$6,472.00.

3.15 Check #8682 was signed by Doster.

3.16 On June 23, 2023, in a phone call with Ray, Forrest Wagoner, owner of Wagoner's, confirmed he has never worked for PPPM, does not know Doster, and did not work on the properties identified on the owner's ledger.

(2) Violation: By identifying a payee other than PPPM on the owner ledger, but authorizing disbursements to PPPM from a Client's Trust Account, Doster violated ORS 696.301(14) (2021 Edition). ORS 696.301(14) states a real estate license may be disciplined if they have: (14) committed an act of fraud or engaged in dishonest conduct substantially related to the fitness of the applicant or real estate licensee to conduct professional real estate activity, without regard to whether the act or conduct occurred in the course of professional real estate activity.

STATEMENT OF LAW APPLICABLE TO FINDINGS OF FACT

4.

4.1 ORS 696.301(3) states a real estate licensee's real estate license may be disciplined if they have: (3) disregarded or violated any provision of ORS 659A.421, 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870 and 696.890 or any rule of the Real Estate Agency

4.2 ORS 696.301(12) states a licensee's real estate license can be disciplined if they have: (12) demonstrated incompetence or untrustworthiness in performing any act for which the licensee is required to hold a license.

4.3 ORS 696.301(14) states a licensee's real estate license can be disciplined if they have: (14) committed an act of fraud or engaged in dishonest conduct substantially related to the fitness of the applicant or real estate licensee to conduct professional real estate activity, without regard to whether the act or conduct occurred in the course of professional real estate activity.

4.4 ORS 696.301(15) states a licensee's real estate license may be disciplined if they have: (15) engaged in any conduct that is below the standard of care for the practice of professional real estate activity in Oregon as established by the community of individuals engaged in the practice of professional real estate activity in Oregon.

4.5 ORS 696.396(2)(c)(B) and (C) states the Real Estate Commissioner may revoke a real estate license if material facts establish a violation of a ground of discipline under ORS 696.301 that: (B) exhibits incompetence in the performance of professional real estate activity; or (C) Exhibits dishonest or fraudulent conduct.

4.6 OAR 863-027-0020(1) defines the goal of progressive discipline and OAR 863-027-0020(2) sets out all factors the Real Estate Commissioner will consider when determining the level of discipline for licensees.

4.7 ORS 696.990(6)(a) states a real state licensee who is a real estate property manager or principal real estate broker and who is engaging in or who has engaged in the management of rental real estate may be required to forfeit and pay to the General Fund of the State Treasury a civil penalty of up to \$1,000.00 per day of violation, or a lesser penalty in an amount determined by the commissioner if the licensee fails to comply with rules that require the licensee to produce for inspection records related to the management of rental real estate that are maintained by the licensee as provided by ORS 696.280. ORS 696.990(6)(b) states a civil penalty imposed under this subsection may not exceed \$10,000.00.

4.8 OAR 863-025-0035(2)(a)(b) and (c) states (2) a property manager must produce records required under section (1) of this rule for inspection by the Agency as follows:(a) When the Agency makes a request for production of property management records, the property manager must provide such records within no less than five banking days; (b) if the Agency has reasonable grounds to believe that funds of an owner or tenant may be missing or misappropriated or that the property manager is engaging in fraudulent activity, any records demanded or requested by the Agency must be produced immediately; and (c) Failure to produce such records within the timelines stated in subsection (a) or (b) of this section is a violation of ORS 696.301.

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

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

ULTIMATE FINDINGS OF FACT

5.

5.1 Doster failed to produce the requested property management records to the Agency.

5.2 Doster authorized disbursements to PPPM from a Client's Trust Account but identified a different payee in the owner's ledger.

5.3 Doster's complete failure to produce the requested records constitutes grounds to impose a civil penalty as per ORS 696.990(6)(a) and (b).

5.4 Doster demonstrated incompetence and untrustworthiness, and conduct that is below the standard of care for the practice of professional real estate activity in Oregon.

5.5 In summary, the facts above establish grounds to revoke Doster's property manager license and impose a civil penalty in an amount up to \$10,000.00.

CONCLUSIONS OF LAW

6.

6.1 Pursuant to ORS 183.417(4) and OAR 137-003-0670 Doster is in default.

6.2 The material facts establish a violation of a ground for discipline, by preponderance of the evidence, under ORS 696.301 as set forth in the *Notice of Intent to Revoke License No. PM.200901058 and to Assess a Civil Penalty*. ORS 696.396(1),(2)(c)(B) and (C).

6.3 Based on these violations, the Agency may revoke Doster's property manager license.

6.4 Specifically, Doster is subject to discipline pursuant to ORS 696.301(3), (12), (14) and (15) for (3) disregarding or violating any provision of ORS 659A.421, 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870 and 696.890 or any rule of the Real Estate Agency; (12) demonstrating incompetence or untrustworthiness in performing any act for which the licensee is required to hold a license; (14) committing an act of fraud or engaging in dishonest conduct substantially related to the fitness of the applicant or real estate licensee to conduct professional real estate activity; and (15) engaging in any conduct that is below the standard of care for the practice of professional real estate activity in Oregon as established by the community of individuals engaged in the practice of professional real estate activity in Oregon.

6.5 A revocation of Doster's property manager license is appropriate for violations of ORS 696.301(3), (12), (14) and (15).

6.6 A revocation of Doster's property manager license is appropriate under ORS 696.396(2)(c)(B) and (C). According to ORS 696.396(2)(c)(B) the Agency may revoke a real estate license if the material facts establish a violation of a ground of discipline under ORS 696.301 that (B) exhibits incompetence in the performance of professional real estate activity; (C) exhibits dishonest or fraudulent conduct.

6.7 The *Notice of Intent to Revoke License No. PM.200901058 and to Assess a Civil Penalty* also established grounds to assess a civil penalty pursuant to ORS 696.990(6)(a)(b), and based on these violations, the Agency may assess a civil penalty against Doster.

6.8 Based on the evidence in the record, the preponderance of the evidence supports the revocation of Doster's property manager license and assessing a \$10,000.00 civil penalty.

6.9 The Agency may therefore, revoke Doster's property manager license. The Agency may also assess a civil penalty in the amount of \$10,000.00.

6.10 Pursuant to ORS 696.775 the expiration or lapsing of Doster's license does not prohibit the Commissioner from proceeding with this, or further action.

6.11 The specific violations are repeated here below:

(1) Violation: By failing to produce property management records within five days of the request, Doster violated ORS 696.301(3) as it incorporates OAR 863-025-0035(2)(a)(b)(c) (1/1/2023 Edition). OAR 863-025-0035(2)(a)(b)(c) states: a property manager must produce records for inspection of the Agency (a) when the Agency makes a request for production of property management records, the property manager must provide such records within no less than five banking days; (b) if the Agency has reasonable grounds to believe that funds of an owner or tenant may be missing or misappropriated or that the property manager is engaging in fraudulent activity, any records demanded or requested by the Agency must be produced immediately; and (c) failure to produce such records within the timelines stated in OAR 863-025-0035(2)(a) or (b) of this section is a violation of ORS 696.301.

(2) Violation: By identifying a payee other than PPPM on the owner leger, but authorizing disbursements to PPPM from a Client’s Trust Account, Doster violated ORS 696.301(14) (2021 Edition). ORS 696.301(14) states a real estate license may be disciplined if they have: (14) committed an act of fraud or engaged in dishonest conduct substantially related to the fitness of the applicant or real estate licensee to conduct professional real estate activity, without regard to whether the act or conduct occurred in the course of professional real estate activity.

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ORDER

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

IT IS FURTHER ORDERED that, pursuant to ORS 696.990(6)(a)(b) and based upon the violation set forth above, Doster pay a civil penalty of \$10,000.00, said penalty to be paid to the General Fund of the State Treasury by paying the same to OREA.

Dated this 5th day of october, 2023.

OREGON REAL ESTATE AGENCY

DocuSigned by:
Steve Strode
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Steven Strode
Real Estate Commissioner

NOTICE OF RIGHT TO APPEAL: 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 to the Oregon Court of Appeals, pursuant to the provisions of ORS 183.482.

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Unlicensed Professional
Real Estate Activity of
SAMANTHA INGRAM

STIPULATED FINAL ORDER

The Oregon Real Estate Agency (Agency) and Samantha Ingram (Ingram) do hereby agree and stipulate to the following:

FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

1.

In establishing the violations set forth herein, the Agency may rely on one or more of the definitions contained in ORS 696.010.

1.1 Ingram was a licensed real estate broker with Cascadian South LLC.

1.2 On May 1, 2023, the Agency sent a renewal notification to Ingram stating her license would expire at the end of May. On May 20, 2023, the Agency sent another notification to Ingram regarding the upcoming license expiration at the end of the month.

1.3 On June 1, 2023, Ingram’s license expired.

1.4 On July 21, 2023, Ingram submitted a renewal application. In response to one of the questions, Ingram indicated she had conducted professional real estate activity during the time her license was expired. The Agency opened an investigation.

1.5 Ingram wrote in her renewal application “6/14/23 Contract generated 6/20/23 Contract generated 7/9/23 Contract generated 7/10/23 New listing added 7/16/23 Contract generated.”

1 1.6 On August 31, 2023, in an interview with Agency Investigator Frank H. Leonard
2 Jr. (Leonard), Ingram stated that a number of events happened during that time period which
3 caused her broker’s license to expire, and it was a complete oversight.

4 1.7 Leonard asked Ingram about her answer on the renewal application, indicating
5 she conducted professional real estate activity while her license was expired. Ingram stated
6 that she continued to work on purchase agreements that she sent out on behalf of clients and
7 for five properties.

8 1.8 Ingram stated she received no compensation out of those properties in the
9 months of June and July 2023.

10 **(1) Conclusion of Law:** By conducting professional real estate activity after her license
11 expired and before renewing it, Ingram violated ORS 696.020(2) (2021 Edition). Ingram is
12 subject to a civil penalty under ORS 696.990(4)(a)(b) (2021 Edition).

13

14

2.

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

23

3.

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

26

4.

27

STIPULATION AND WAIVER

28 I, Samantha Ingram, have read and reviewed this Stipulated Final Order and its
29 Findings of Fact, Statements of Law and Conclusions of Law. I understand that the Findings
30 of Fact, Conclusions of Law and this Stipulation and Waiver of Hearing rights embody the full

1 and complete agreement and stipulation between the Agency and me. I further understand
2 that if I do not agree with this stipulation, I have the right to request a Hearing on this matter
3 and to be represented by legal counsel at such a Hearing. I also understand that any Hearing
4 would be conducted in accordance with the procedures set forth in ORS Chapter 183 and in
5 accordance with the Rules of Practice and Procedure adopted by the Attorney General of the
6 State of Oregon. By signing this Stipulated Final Order, I freely and voluntarily waive my rights
7 to a Hearing, to representation by legal counsel at such a Hearing, and to judicial review of this
8 matter.

9 I hereby agree and stipulate to the above Findings of Fact and Conclusions of Law and
10 understand that the Order which follows hereafter, which I have also read and understand,
11 may be completed and signed by the Real Estate Commissioner or may be rejected by the
12 Real Estate Commissioner. I further understand that, in accordance with the provisions of
13 ORS 696.445(3), notice of this Order shall be published in the Oregon Real Estate News
14 Journal.

15 In addition to all of the above, I agree that once the Commissioner executes this
16 Stipulated Final Order, I will accept service of the Stipulated Final Order by email, and hereby
17 waive the right to challenge the validity of service.

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ORDER

IT IS HEREBY ORDERED that, pursuant to ORS 696.990 and based upon the violation set forth above, Ingram pay a civil penalty in the sum of \$1,000.00, said penalty to be paid to the General Fund of the State Treasury by paying the same to the Agency.

IT IS SO STIPULATED:

IT IS SO ORDERED:



DocuSigned by:

Samantha Ingram

571C9E3313B846D...

SAMANTHA INGRAM

DocuSigned by:

Steve Strobe

E2C2D0097AD8471...

STEVEN STRODE

Real Estate Commissioner

Date 10/17/2023 | 3:20 PM PDT

Date 10/24/2023 | 11:41 AM PDT

Date of Service: 10/24/2023

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of)
SAMUEL JOHNSON) STIPULATED FINAL ORDER

The Oregon Real Estate Agency (Agency) and Samuel Johnson (Johnson) do hereby agree and stipulate to the following:

FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

1.

1.1 At all times mentioned herein, Johnson was licensed as a property manager acting in the capacity of a sole practitioner and doing business under the registered business name of Hoodview Property Management (Hoodview).

1.2 On January 5, 2023, Johnson was notified that his clients' trust account ending in 9163 (CTA #9163), which holds owner funds, had been selected for reconciliation review. Johnson provided documents for November 2022. An investigation was opened due to the outstanding issues found in the review.

1.3 On March 28, 2023, Agency Investigator Dylan Ray (Ray) requested additional records from Johnson, including the most recent three-way reconciliation, copies of property management agreements, and owners ledgers updated to comply with real estate license law.

1.4 On April 8, 2023, Johnson submitted the requested documents to the Agency.

1.5 A review of the January 2023 reconciliation for CTA #9163 documents showed that Johnson completed the reconciliation on March 10, 2023.

1 1.6 The November 2022 reconciliation review showed a negative balance of \$0.03.
2 Upon review of the of the receipts and disbursements journal from January 2023, the
3 correction was not completed until January 10, 2023.

4 **(1) Conclusion of Law:** By failing to reconcile CTA #9163 within 30 calendar days of the
5 bank statement, Johnson violated ORS 696.301(3) and its implementing rule OAR 863-025-
6 0028(2)(d)(A) (1/1/2023 Edition).

7 **(2) Conclusion of Law:** By failing to resolve the negative account balance from the
8 November 2022 reconciliation prior to the following month's reconciliation, Johnson violated
9 ORS 696.301(3) and its implementing rule OAR 863-025-0028(4) (1/1/2023 Edition).

10 1.7 The owner's ledgers did not include identifying information for receipts and
11 disbursements.

12 **(3) Conclusion of Law:** By failing to include identifying information for receipts and
13 disbursements in the owner's ledgers, Johnson violated ORS 696.301(3) and its implementing
14 rule OAR 863-025-0055(3)(a)(b)(B)(C)(D)(c)(A)(B)(C)(D)(E)(d) (1/1/2023 Edition).

15 1.9 On May 11, 2023, in an interview with Ray, Johnson was asked about a deposit
16 of funds into a clients' trust account in the amount of \$0.03. Johnson explained that there was
17 an overpayment to an owner, and Johnson took funds from his own operating account to
18 correct it. Johnson told Ray, if he made the mistake, he pays for it with his own money.

19 **(4) Conclusion of Law:** By comingling personal funds to the clients' trust account, Johnson
20 violated ORS 696.301(3) and its implementing rules OAR 863-0025-0065(6) (1/1/2023 Edition)
21 and OAR 863-025-0025(5)(a) (1/1/2023 Edition). Johnson also violated ORS 696.301(3) as it
22 incorporates ORS 696.241(5) 2021 Edition.

23 1.10 Review of the receipts and disbursements journal showed consistent negative
24 balances that typically lasted several days to over a week.

25 1.11 Payments to Hoodview and Smart were often the cause of the negative balance.

26 **(5) Conclusion of Law:** By not resolving negative balances in the record of receipts and
27 disbursements journal by the close of the day, Johnson violated ORS 696.301(3) and its
28 implementing rule OAR 863.025.0040(7) (1/1/2020, 1/1/2021, and 1/1/2023 Editions).

1 **(6) Conclusion of Law:** By disbursing funds from a clients' trust account with a negative
2 balance, Johnson violated ORS 696.301(3) and its implementing rule OAR 863-025-0027(3)
3 (1/1/2020, 1/1/2021, and 1/1/2023 Editions).

4 1.12 All of the above demonstrates incompetence or untrustworthiness in performing
5 acts for which the real estate licensee is required to hold a license and conduct that is below
6 the standard of care for the practice of professional real estate activity in Oregon.

7 **(7) Conclusion of Law:** Based on the foregoing, Licensee is subject to discipline under
8 ORS 696.301(12) and (15) (2019 and 2021 Editions).

9
10 2.

11 2.1 The foregoing violations are grounds for discipline pursuant to ORS 696.301.

12 2.2 The Agency reserves the right to investigate and pursue additional complaints
13 that may be received in the future regarding this licensee.

14 2.3 In establishing the violations alleged above, the Agency may rely on one or more
15 of the definitions contained in ORS 696.010.

16
17 3.

18 **STIPULATION AND WAIVER**

19 I, **Samuel Johnson**, have read and reviewed this Stipulated Final Order and its
20 Findings of Fact, Statements of Law and Conclusions of Law. I understand that the Findings
21 of Fact, Conclusions of Law and this Stipulation and Waiver of Hearing rights embody the full
22 and complete agreement and stipulation between the Agency and me. I further understand
23 that if I do not agree with this stipulation, I have the right to request a Hearing on this matter
24 and to be represented by legal counsel at such a Hearing. I also understand that any Hearing
25 would be conducted in accordance with the procedures set forth in ORS Chapter 183 and in
26 accordance with the Rules of Practice and Procedure adopted by the Attorney General of the
27 State of Oregon. By signing this Stipulated Final Order, I freely and voluntarily waive my rights
28 to a Hearing, to representation by legal counsel at such a Hearing, and to judicial review of this
29 matter.

1 I hereby agree and stipulate to the above Findings of Fact and Conclusions of Law and
2 understand that the Order which follows hereafter, which I have also read and understand,
3 may be completed and signed by the Real Estate Commissioner or may be rejected by the
4 Real Estate Commissioner. I further understand that, in accordance with the provisions of
5 ORS 696.445(3), notice of this Order shall be published in the Oregon Real Estate News
6 Journal.

7 In addition to all of the above, I agree that once the Commissioner executes this
8 Stipulated Final Order, I will accept service of the Stipulated Final Order by email, and hereby
9 waive the right to challenge the validity of service.

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ORDER

IT IS HEREBY ORDERED that Samuel Johnson's property manager license be, and hereby is reprimanded.

IT IS FURTHER ORDERED that Johnson complete the 27-hour Property Manager Advanced Practices Course, (detailed in OAR 863-022-0022, 1-1-21 Edition) to be completed prior to the next license renewal. Previously completed 27-hour Property Manager Advanced Practices Courses do not qualify. The course must have been started on August 7, 2023, or later to satisfy this order. Johnson must submit a certificate to the Agency showing completion of the 27-hour Property Manager Advanced Practices Course. This certificate must be submitted to the Agency no later than 10 days after the education has been completed. Failure to complete and submit the required education would be a violation of ORS 696.301(13) (2021 Edition).

IT IS SO STIPULATED:

IT IS SO ORDERED:



DocuSigned by: Samuel Johnson
C27480940095487...
SAMUEL JOHNSON

DocuSigned by: Steve Strode
E2C2D0097AD8471...
STEVEN STRODE

Date 9/21/2023 | 11:28 AM PDT

Date 9/22/2023 | 8:39 AM PDT

Date of Service: 9/22/2023

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Escrow Agent License of)
TIMESHARE ESCROW INC.)

STIPULATED FINAL ORDER

The Oregon Real Estate Agency (Agency) and Timeshare Escrow Inc. do hereby agree and stipulate to the following:

FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

1.

In establishing the violations set forth herein, the Agency may rely on one or more of the definitions contained in ORS 696.505.

1.1 Timeshare Escrow Inc. (TEI) was licensed as an escrow agent in Oregon until July 1, 2023, when their license expired.

1.2 On February 15, 2023, the Agency sent an email to TEI reminding them to submit their annual report by March 31, 2023. The Agency did not receive a copy of the annual report.

1.3 On May 24, 2023, the Agency sent an email to TEI to submit their 2022 financial statement by May 31, 2023.

1.4 On June 1, 2023, the Agency sent a renewal notification to TEI stating that their license would expire at the end of June 2023. On June 27, 2023, the Agency sent another notification to TEI regarding the upcoming license expiration at the end of the month.

1.5 All Agency notifications were sent to the email address of record for TEI.

1.6 TEI failed to submit their Annual Report or Financial Statements. The Agency opened an investigation.

1 1.7 On July 5, 2023, Agency Investigator Dylan Ray (Ray) called the phone numbers
2 for both individuals listed as the owners of TEI. Both phone lines were deactivated. Ray called
3 the phone number of record for TEI and reached Susan Johnson (Johnson).

4 1.8 Johnson told Ray she was a former employee of TEI but hadn't worked for them
5 since September 2022. Johnson was aware that her contact information was still in the
6 Agency's records for TEI, and she was getting their renewal emails.

7 1.9 On July 14, 2023, Ray received a phone call from Kristi Olson (Olson), who had
8 taken over management of TEI. Olson confirmed that TEI is conducting business in Oregon.

9 1.10 Olson explained to Ray that she did receive a letter from the Agency but did not
10 know what financial documents to provide. Olson stated her CPA had quit, and they had to hire
11 a new CPA. Olson confirmed the former employee was Johnson.

12 1.11 Ray provided Olson with a link to the rules for annual reporting and financial
13 statements, along with contact information for Agency Licensing staff.

14 1.12 On August 1, 2023, Ray requested TEI submit records of real estate activity that
15 occurred between June 30, 2023, and the present day, as well as if they had any pending
16 closings in Oregon.

17 1.13 Records submitted to Ray showed a total of 18 closings that occurred during the
18 month of July 2023. All closings reported took place in Oregon.

19 1.14 In a phone call with Ray on August 21, 2023, Olson clarified that the letter she
20 received from the Agency was an email that forwarded to her by a client on July 6, 2023. Olson
21 confirmed that she did not receive any communication from Johnson regarding the renewal
22 communication from the Agency.

23 **(1) Conclusion of Law:** By continuing to conduct escrow operations during the time their
24 license was expired, TEI violated ORS 696.511(1) (2021 Edition) and its incorporating rule
25 OAR 863-049-0035(1)(3)(5) (01/01/2023 Edition). TEI is subject to a civil penalty under ORS
26 696.585(1) (2021 Edition).

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2.

2.1 The foregoing violations are grounds discipline pursuant to ORS 696.535(1).

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

2.3 In establishing the violations alleged above, the Agency may rely on one or more of the definitions contained in ORS 696.505.

3.

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

4.

STIPULATION AND WAIVER

I, Timeshare Escrow Inc., have read and reviewed this Stipulated Final Order and its Findings of Fact and Conclusions of Law. I understand that the Findings of Fact, Conclusions of Law and this Stipulation and Waiver of Hearing rights embody the full and complete agreement and stipulation between the Agency and Timeshare Escrow Inc. I further understand that if Timeshare Escrow Inc. does not agree with this stipulation, Timeshare Escrow Inc. has the right to request a Hearing on this matter and to be represented by legal counsel at such a Hearing. I also understand that any Hearing would be 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. By signing this Stipulated Final Order, Timeshare Escrow Inc. freely and voluntarily waive Timeshare Escrow Inc's rights to a Hearing, to representation by legal counsel at such a Hearing, and to judicial review of this matter.

Timeshare Escrow Inc. hereby agrees and stipulates to the above Findings of Fact and Conclusions of Law and understand that the Order which follows hereafter, which I have also read and understand, may be completed and signed by the Real Estate Commissioner or may be rejected by the Real Estate Commissioner. I further 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.

1 In addition to all of the above, Timeshare Escrow Inc. agrees that once the
2 Commissioner executes this Stipulated Final Order, Timeshare Escrow Inc. will accept service
3 of the Stipulated Final Order by email, and hereby waive the right to challenge the validity of
4 service.

5 ORDER

6 IT IS ORDERED that, pursuant to ORS 696.585 and based upon the violation set forth
7 above, Timeshare Escrow Inc. pay a civil penalty in the sum of \$1,000.00, said penalty to be
8 paid to the General Fund of the State Treasury by paying the same to the Agency.

9
10 IT IS SO STIPULATED:

IT IS SO ORDERED:



11
12 DocuSigned by:

13 *KRISTI OLSON*

8B2933495358423...

14 KRISTI OLSON

15 Officer in Charge of Escrow Operations

16 Timeshare Escrow Inc.

17
18 Date 11/1/2023 | 2:00 PM PDT

DocuSigned by:

13 *Steve Strode*

E2C2D0097AD8471...

14 STEVEN STRODE

15 Real Estate Commissioner

17
18 Date 11/8/2023 | 7:54 AM PST

19
20 Date of Service: 11/8/2023

**REAL ESTATE BOARD
REGULATION DIVISION REPORT
December 4th, 2023**

Regulation Division Manager: Elli Kataura

Compliance Specialist 3s (Senior Case Analysts): Meghan Lewis

Financial Investigators (Investigator-Auditors): Lindsey Nunes, Aaron Grimes, Cidia Nañez, John Moore,
Frank Leonard, Dylan Ray

Administrative Specialist 2 (Case Resolution Coordinator): Amanda Moser

Division Overview

The Agency receives complaints and determines if an investigation is appropriate. Open cases are assigned to investigators to gather facts (from interviews and documents), prepare a detailed written report, and submit for Administrative Review. The Senior Case Analysts conducting the Administrative Review work evaluate whether the evidence supports a violation of Agency statutes or administrative rules. When a case finds sufficient cause to sanction a license, the case is elevated to the Commissioner for review. When the Commissioner supports a sanction, the Senior Case Analysts offer a settlement conference to resolve cases without a contested case hearing. If the respondent requests a hearing, the Investigator works with the Assistant Attorney General in preparing for and presenting the case at hearing.

Personnel

We currently have a Senior Case Analyst vacancy.

Workload and Activity Indicators

Average # in this status at the time	2019	2020	2021	2022	Current 11/8/23
Complaint	39	24	34	16	10
Investigation	61	59	40	29	66
<i>(# of Investigators)</i>	7	7	7	6*	6*
Admin Review	90	8	11	4	5
Settlement Process	44	6	7	5	6

* We have one investigator that has been on extended leave for the majority of 2022-2023.

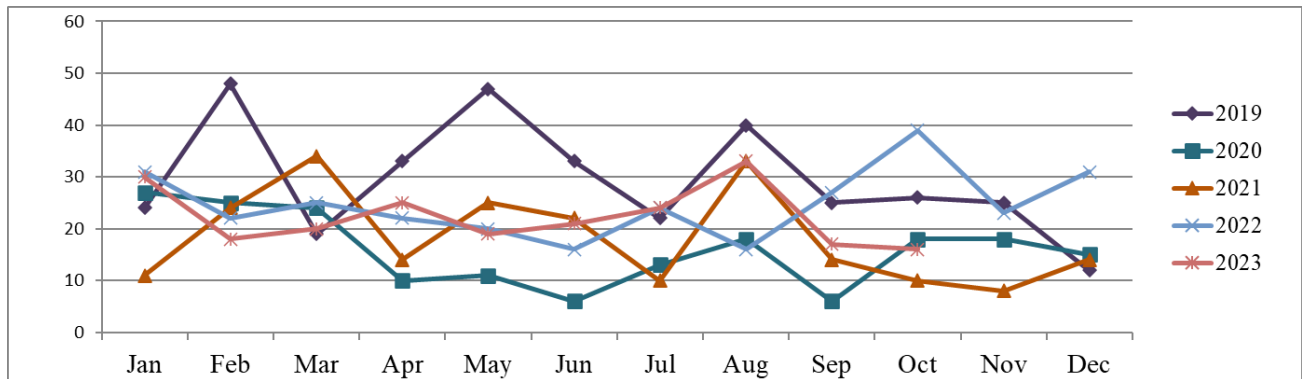
**Report to the Real Estate Board
Land Development Division
December 4th, 2023**

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



We’ve had 223 filings through the end of October this year, which is slightly less than equivalent to the filing volume seen last year through the same time frame. Last year we had 244 filings thru this timeframe.

Rulemaking:

The agency is engaged in two rulemaking processes at this time. The first relates to OAR 863-014-0054 and 863-024-0053 and as covered in the last board meeting. Briefly, the purpose of this rulemaking was to respond to changes in the Servicemembers Civil Relief Act (SCRA) regarding license portability between states. Those changes became effective in January of this year. Temporary rules remain in place at this time and we are partway through the permanent rulemaking process. By the time of the board meeting, the notice of permanent rulemaking will have been filed and we will have sent out notices regarding the hearing and termination date for comment period.

The second rulemaking relates to OAR 863-027-0020, the progressive discipline rule. On October 10th the agency filed a temporary rule which essentially restores the rule to a prior version by adding back in paragraphs 4 and 5. They were removed because they are substantially similar to statutory language and are being added back in in order to ensure the public and licensees are aware of the progressive discipline requirements. The temporary rule, which includes the restored paragraphs 4 and 5, is attached as an exhibit to this report.

OFFICE OF THE SECRETARY OF STATE

LAVONNE GRIFFIN-VALADE
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE
AND TRIBAL LIAISON



ARCHIVES DIVISION

STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

REA 3-2023

CHAPTER 863
REAL ESTATE AGENCY

FILED

10/11/2023 5:21 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Amends rule to substantively restore paragraphs 4 and 5 which were previously removed.

EFFECTIVE DATE: 10/11/2023 THROUGH 04/05/2024

AGENCY APPROVED DATE: 10/11/2023

CONTACT: Michael Hanifin
971-719-6319
michael.b.hanifin@rea.oregon.gov

530 Center Street NE, Suite 100
Salem, OR 97301

Filed By:
Michael Hanifin
Rules Coordinator

NEED FOR THE RULE(S):

Amendment required to ensure the public and licensees have accurate information about the Agency's progressive discipline rule.

JUSTIFICATION OF TEMPORARY FILING:

The agency has received information indicating that licensees may interpret OAR 863-027-0020 in a manner that is inconsistent with ORS 696.396(2). The Agency finds that the public interest requires the Agency to promulgate a temporary rule to ensure that licensees and the public are accurately informed about the Agency's progressive discipline rule. Failure of the Agency to act could impact licensees who are subject to potential discipline because they will be unaware of the progressive discipline requirements, and the general public will be unaware regarding the functions of the Agency. The rule below clarifies the Agency's application of the progressive discipline framework under ORS 696.396(2). This rule change restores paragraphs 4 and 5 to the rule, which were present in a prior version of the rule.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

ORS 696.396, available thru the Oregon Legislature website. <https://www.oregonlegislature.gov/lc>

AMEND: 863-027-0020

RULE TITLE: Progressive Discipline of Licensees

RULE SUMMARY: Restored paragraphs (4) and (5) that were removed in 2018. Language is substantively the same as pre-removal, and tracks with ORS 696.396.

RULE TEXT:

(1) The goal of progressive discipline is to correct a licensee's inappropriate behavior, deter the licensee from repeating the conduct, and educate the licensee to improve compliance with applicable statutes and rules. Progressive discipline means the process the Real Estate Agency follows, which may include using increasingly severe steps or measures against a licensee when a licensee fails to correct inappropriate behavior or exhibits subsequent instances of

inappropriate behavior.

(2) The Real Estate Commissioner will evaluate all relevant factors to determine whether to issue a non-disciplinary educational letter of advice or to discipline a licensee through reprimand, suspension or revocation under ORS 696.301, including but not limited to:

- (a) The nature of the violation;
- (b) The harm caused, if any;
- (c) Whether the conduct was inadvertent or intentional;
- (d) The licensee's experience and education;
- (e) Whether the licensee's conduct is substantially similar to conduct or an act for which the licensee was disciplined previously;
- (f) Any mitigating or aggravating circumstances;
- (g) The licensee's cooperation with the investigation;
- (h) Any Agency hearing orders addressing similar circumstances; and
- (i) The licensee's volume of transactions.

(3) An Agency manager or authorized Agency staff member may issue a non-disciplinary educational letter of advice to a licensee which includes, but is not limited to, the following statements:

- (a) The Commissioner has determined not to pursue disciplinary action against the licensee; and
- (b) The letter is the result of an investigation and closes the investigation; and
- (c) The letter is not disciplinary in nature and will not appear in the agency's disciplinary records; and
- (d) The purpose of the letter is to educate the licensee; and
- (e) The letter will be expunged from the agency's records six years from the date of issuance.

(4) A reprimand is the maximum disciplinary action the commissioner may issue against a licensee unless the licensee has committed an act or conduct that constitutes grounds for discipline under ORS 696.301 and such act or conduct:

- (a) Results in significant damage or injury;
- (b) Exhibits incompetence in the performance of professional real estate activity;
- (c) Exhibits dishonesty or fraudulent conduct; or
- (d) Repeats conduct or an act that was substantially similar to conduct or an act for which the real estate licensee was disciplined previously.

(5) The commissioner may impose suspension or revocation only if the licensee has committed an act that constitutes grounds for discipline under ORS 696.301 and such act also meets the requirements of 696.396(2)(c).

STATUTORY/OTHER AUTHORITY: ORS 696.385, ORS 696.396

STATUTES/OTHER IMPLEMENTED: ORS 696.241, ORS 696.301

**REAL ESTATE BOARD
ADMINISTRATIVE SERVICES DIVISION REPORT
December 4, 2023**

Administrative Services Manager: Mesheal Tracy

Accountant: Caty Karayel

Systems Administrator: Tiffani Miller

Program Analyst: Rus Putintsev

IT Helpdesk: Denise Lewis

Section Overview

The Administrative Services Division acts as business support for the Agency overall. This division manages accounting, purchasing and contracting, inventory control, facilities, payroll, human resources, special projects, information technology (IT), performance, and communications.

Budget Update

The 2023-2025 biennium began on July 1, 2023. We started the new biennium with expected expenditures at **\$10.5 million**. Estimated expenses are **\$13.25 million**. These expenses include the approved expenditures for our eLicense replacement project.

Revenue/Economic Outlook

As of September, the Agency had a monthly surplus of **\$24,393** for the biennium.

We had **24,996 licensees** at the end of September. This is the first time since August 2022 that we have been under 25,000 licensees.

Division Accomplishments

We added a webform to the website for public record requests.

We are preparing for a cybersecurity assessment that evaluates our agency against national standards.

We established procedures so we can more securely receive complaints and their supporting documents.

Real Estate Agency - AY25

2023-2025 Budget - Biennium to Date Through June 30th 2025

<i>Budget Codes</i>		<u>23-2025 LAB</u>	<u>Expected Total Expenditures for Biennium (current)</u>	<u>Expected Remaining Limitation at end of Biennium</u>
	Total Personal Services	8,696,131	9,327,290	(631,159)
4100 & 4125	In-State Travel & Out-of-State Travel	107,334	56,319	51,015
4150	Employee Training	40,206	31,691	8,515
4175	Office Expenses	58,989	11,340	47,650
4200	Telecom/Tech Services & Support	70,231	71,724	(1,493)
4225	State Government Services	646,658	542,480	104,178
4250	Data Processing	118,785	123,429	(4,644)
4275	Publicity & Publications	39,905	1,762	38,143
4300 & 4315	Professional Services & IT Professional Services	378,671	201,412	177,259
4325	Attorney General Legal Fees	365,688	350,064	15,624
4375	Employee Recruitment	8,420	0	8,420
4400	Dues & Subscriptions	10,406	11,559	(1,153)
4425	Facilities Rent & Taxes	276,712	265,486	11,226
4475	Facilities Maintenance	4,911	19,051	(14,140)
4575	Agency Program Related S&S	982,084	982,084	0
4650	Other Services & Supplies	4,269	186,506	(182,237)
4700	Expendable Property \$250-\$5000	31,678	3,393	28,285
4715	IT Expendable Property	155,803	49,206	106,597
	Total Services & Supplies	3,300,750	2,907,505	393,245
5550	Data Processing Software	2,000,000	2,000,000	0
	Total Capital Outlay	2,000,000	2,000,000	0
	Totals	13,996,881	14,234,795	(237,914)

**REAL ESTATE BOARD
EDUCATION & LICENSING DIVISION REPORT
December 4, 2023**

Education & Licensing Manager: Madeline Alvarado

Compliance Specialist: Tami Schemmel, Nenah Darville, Katie Nash

Administrative Specialist: Elizabeth Hardwick, Kaely Salem, Hani Ghamrawi, Marcy Weiss

Division Overview

The Education and Licensing Division acts as the first point of contact for the public. This division manages reception, licensing services, compliance reviews, client trust account reviews and education.

Personnel

Hani Ghamrawi filled the Administrative 2 position. Hani has been with the Agency since June of 2022 where he initially worked in the Regulation Division.

Education Update

Continuing Education Providers are in their renewal period which will end on 12/31/2023.

Licensing Update

For the month of October, complaint processing averaged 10 days.

Licensing Statistics

Total Licensee Counts by Month:

Individuals (Persons)	Sept-23	Oct-23
Broker – Total	17,753	17,758
Active	16,081	16,051
Inactive	1,672	1,707
Principal Broker - Total	6,235	6,243
Active	5,813	5,826
Inactive	422	417
ALL BROKERS Total	23,988	24,001
Active	21,894	21,877
Inactive	2,094	2,124
Property Manager - Total	990	983
Active	879	873
Inactive	111	110
MCC Salesperson	18	17
MCC Broker	0	0
TOTAL INDIVIDUALS	24,996	25,001
Active	22,791	22,767
Inactive	2,205	2,234
Facilities (Companies)		
REMO	5	5
Registered Business Name (RBN)	3,734	3,738
Registered Branch Office (RBO)	787	780
Escrow Organization	87	86
Escrow Branch	169	170
Condominium Filing (CO)	472	480
Unit Owners Association	792	784
Pre-License Education Provider (PEP)	25	25
CEP	300	303
MCC Operator	25	25
TOTAL FACILITIES	6,396	6,396
TOTAL INDIVIDUALS & FACILITIES	31,392	31,397

New Licenses by Month:

Individuals (Persons)	Sept-23	Oct-23
Broker	117	126
Principal Broker	14	16
TOTAL BROKERS	131	142
Property Manager	11	8
MCC Salesperson	1	0
MCC Broker	0	0
TOTAL INDIVIDUALS	143	150
Facilities (Companies)		
Continuing Education Provider (CEP)	1	3
REMO	0	0
Registered Business Name	30	33
Registered Branch Office	5	5
Escrow Organization	0	0
Escrow Branch	0	0
Condominium Filing	0	5
Unit Owners Association	13	11
Pre-License Ed Provider	0	0
MCC Operator	0	0
TOTAL FACILITIES	48	54
TOTAL INDIVIDUALS & FACILITIES	192	207

RBN Renewal

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<u>Eligible to Renew</u>	414	321	352	348	316	292	256	248	263	266		
<u>Failed to Renew</u>	13	13	14	27	13	17	21	17	18	20		
<u>% Renewed</u>	97%	96%	96%	92%	96%	94%	92%	93%	93%	92%		

Exam Statistics

October 2023

ALL LICENSING EXAMS Total

Broker	382
Property Manager	24
Principal Broker	56
Reactivation	0

Pass Rates

<u>First Time Pass Rate</u> <u>Percentage</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Broker State	57	50	47	44	42
Broker National	70	68	67	66	65
Principal Broker State	51	53	57	54	46
Principal Broker National	69	63	55	65	50
Property Manager	64	58	66	65	64

Oregon Real Estate Agency Education & Licensing Division
Licensee Application & Renewal 2023 Data

New Applications													
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Brokers	262	211	275	209	253	247	228	266	226	178			2355
Principal Brokers	37	24	37	16	24	30	32	30	21	25			276
Property Managers	26	26	35	24	30	20	21	28	32	20			262
Total	325	261	347	249	307	297	281	324	279	223			2893

Renewal Activity														
Brokers		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
On Time	Active	482	509	544	527	581	559	557	579	555	540			5433
	Inactive	42	28	30	29	28	39	25	39	33	46			339
Late	Active	74	48	50	52	67	43	63	57	63	59			576
	Inactive	12	8	13	12	12	9	9	8	9	15			107
Lapse		111	104	120	121	117	133	168	148	155	137			1314
Total		721	697	757	741	805	783	822	831	815	797			7769

Principal Brokers		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
On Time	Active	206	175	212	230	194	235	252	238	240	210			2192
	Inactive	20	12	7	10	10	8	9	11	7	7			101
Late	Active	13	6	9	10	7	13	11	13	11	14			107
	Inactive	2	3	1	3	1	2	0	6	3	2			23
Lapse		21	27	27	29	28	29	21	28	27	23			260
Total		262	223	256	282	240	287	293	296	288	256			2683

Oregon Real Estate Agency Education & Licensing Division
Licensee Application & Renewal 2022 Data

New Applications													
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Brokers	398	336	412	318	291	292	226	268	294	227	205	187	3454
Principal Brokers	47	32	42	25	22	23	33	28	28	25	32	18	355
Property Managers	20	35	30	33	23	21	23	22	29	25	32	15	308
Total	465	403	484	376	336	336	282	318	351	277	269	220	4117

Renewal Activity														
Brokers		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
On Time	Active	491	517	535	527	608	569	559	569	571	571	500	533	6550
	Inactive	49	40	36	36	49	32	36	34	31	43	32	44	462
Late	Active	44	42	60	50	66	52	52	64	54	59	67	49	659
	Inactive	13	10	6	13	12	10	7	9	11	7	10	13	121
Lapse		128	104	123	107	120	117	131	90	141	94	127	109	1391
Total		725	713	760	733	855	780	785	766	808	774	736	748	9183

Principal Brokers		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
On Time	Active	221	238	230	232	247	254	201	232	264	223	202	210	2754
	Inactive	9	8	7	8	12	11	13	10	7	7	13	9	114
Late	Active	11	10	13	13	14	9	8	11	8	7	12	6	122
	Inactive	2	1	4	1	2	1	1	2	2	2	5	2	25
Lapse		24	19	21	18	21	26	18	25	26	39	19	29	285
Total		267	276	275	272	296	301	241	280	307	278	251	256	3300

Oregon Real Estate Agency Education & Licensing Division Phone Counts

(Minutes: seconds)	Jan – 23	Feb – 23	Mar – 23	Apr – 23	May-23	Jun-23	Jul-23	Aug-23	Sep-23	Oct-23	Nov--23	Dec-23	2023 Average
Call Count	1642	1368	1603	1428	1438	1286	1283	1468	1382	1445			1435
Average Wait Time	:33	:32	:35	:28	:28	:35	:38	:29	:32	:29			:32
Maximum Wait Time	0:11:07	0:11:14	0:10:58	0:09:13	0:10:11	0:16:20	0:09:26	0:11:08	0:11:55	0:11:53			0:11:20

Oregon Real Estate Agency Education & Licensing Division Phone Counts

(Minutes: seconds)	Jan – 22	Feb – 22	Mar – 22	Apr – 22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov--22	Dec-22	2022 Average
Call Count	1730	1520	1776	1510	1437	1444	1303	1510	1555	1444	1469	1295	1499
Average Wait Time	:33	:23	:45	:33	:35	:36	:42	:58	:50	:36	:29	:43	:39
Maximum Wait Time	0:20:37	0:12:03	0:26:17	0:13:25	0:10:53	0:11:15	0:11:13	0:31:05	0:32:16	0:13:58	0:10:52	0:11:53	0:17:09

Oregon Real Estate Agency Education & Licensing Division Phone Counts

(Minutes: seconds)	Jan – 21	Feb – 21	Mar – 21	Apr – 21	May-21	Jun-21	Jul-21	Aug-21	Sep-21	Oct-21	Nov--21	Dec-21	2021 Average
Call Count	1981	1801	1918	1822	1452	1886	1653	1616	1510	1477	1407	1426	1662
Average Wait Time	:51	:36	:29	:29	:24	:18	:26	:15	:19	:17	:22	:36	:27
Maximum Wait Time	0:19:17	0:10:52	0:09:59	0:10:43	0:08:58	0:06:37	0:28:56	0:06:49	0:07:45	0:04:46	0:13:37	0:19:12	0:12:18

(Minutes: seconds)	Jan – 20	Feb – 20	Mar – 20	Apr – 20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Nov--20	Dec-20	2020 Average
Call Count	2117	1834	1830	1474	1468	1775	1875	1678	1749	1646	1593	1785	1735.3
Average Wait Time	:25	:21	:19	:23	:25	:35	:29	:26	:21	:20	:24	:29	:24.75
Maximum Wait Time	0:11:05	0:09:30	0:14:56	0:10:15	0:18:12	0:13:00	0:21:34	0:14:15	0:11:09	0:17:30	0:09:58	0:12:06	0:13:38

