



# Oregon

Theodore R. Kulongoski, Governor

## Real Estate Agency

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## State of Oregon Real Estate Agency

### REAL ESTATE BOARD

### Regular Meeting Minutes

June 7, 2010

- MEMBERS PRESENT:** Art Kegler, Chair  
Byron Hendricks, Vice-Chair  
Warren (Lee) Dunn  
George Slape  
Kimberly Medford  
Marcia Edwards  
Robert LeFeber  
Joann Hansen
- STAFF PRESENT:** Gene Bentley, Commissioner  
Dean Owens, Deputy Commissioner  
Selina Barnes, Regulations Division Manager  
Stacey Harrison, Education Division Manager  
Laurie Hall, Licensing Division Manager  
Laurie Skillman, Land Development Manager  
Leandra Soto, Board Liaison
- GUESTS PRESENT:** Lester Friedeman, COAR Coldwell Banker Morris RE  
Jason Boone, Duke Warner Realty  
Wendy Adkisson, Coldwell Banker Morris RE  
Cynthia Kimball, John L. Scott  
Paul Carter, Duke Warner Realty  
Andrea Phelps, Windemere  
Steve Smiley, Sothebys  
John Wallace, Oregon Association of Realtors  
Virginia Runge, COAR-Jeff. Co.  
Dave Feagons, Alpine Real Estate, LLC  
Barbara Zrumweide, BJK Real Estate  
Dannie Walker, KOZAK Company  
Mike Kozak, KOZAK Company

**INTRODUCTION OF NEW BOARD MEMBERS/Commissioner Bentley.** Chair Kegler called meeting to order.

## I. BOARD BUSINESS



- A. **Called to Order.** Chair Kegler called meeting to Order at 10am.
- B. **Roll Call.** All members were present.
- C. **Self introduction of board members.** Mr. Kegler asked each of the board members to introduce themselves.
- D. **Approval of Agenda and Order of Business.** The Agenda and Order of Business was approved as submitted.
- E. **Approval of April 5 2010, regular meeting minutes.** The April 5, 2010 regular meeting minutes were approved as submitted.
- F. **Date of the Next Meeting:** August 2, 2010 in Enterprise, Oregon, hosted by the Wallowa County Board of Realtors.

II. **PUBLIC COMMENT.** Mike Hoover, Windermere/Central Oregon Real Estate appeared before the board with a concern about property management and a problem in his community. He has been told since becoming licensed in 1972 that the Agency is a consumer protection agency but does not believe the Agency is protecting the consumer when it comes to property management. There have been six cases in Central Oregon since 1987 with three in the last two years. He was approached by a licensee last July who said that embezzlement was occurring by an owner and wanted to know what to do. The licensee had approached an attorney and was told to report it to the Agency. The attorney said that they wanted to talk to the district attorney first, to perhaps work something out ahead of time. There was a huge delay between the first reporting and the report that went to the district attorney's office. There appeared to be no protection for the public. The Agency wrote up a report of the wrongdoing (embezzlement) but could not do anything. They could not force the DA to do anything or the police department to start an investigation because the DA's office said they would not do anything until the police did an investigation. Hundreds of thousands of dollars were taken from the public and it is not right the Agency cannot do anything about it. Perhaps we need to do something legislatively that starts protecting the public. Mr. Hoover reported he runs a very large property management firm and it is possible to run it inside the rules, without embezzlement.

Chair Kegler thanked Mr. Hoover for his comments. As announced, earlier the board will not make a decision at this meeting. Byron Hendricks asked Mr. Hoover for his thoughts on what this board should do to improve on these types of situations. Mr. Hoover responded that he had not given the solution enough thought yet but is willing to participate on a group or panel if that is the way to approach the issue. Being between sessions, if we want to do something legislatively, we need to address it this year to have it in the legislature next year. He is unsure whether action should come from the board, from the Agency, or from the Oregon Association of Realtors® but there should be some sort of joint work session. Mr. Hendricks asked if the industry would support a requirement for bonding for people with trust accounts. Mr. Hoover responded that there are two issues. One is the licensee and sanctions that do not seem to help solve the problem if someone decides to steal money. Secondly, is there a way to license to a higher level so that you get people who cannot do that, or do you create some sort of law school, whether it is on an insurance policy or by a collective? He had not reviewed what has been discussed the last couple of years so does not know if there is a tendency one way or another. Nearly every other business, including attorneys, need to have some level of bonding, so why not? You either have to have the law school or you have to be able to control the quality of the people. Mr. Hendricks suggested that this is an industry issue rather than an Agency issue. If we ask for bonding for property managers or people holding trusts, that requirement will apply to each one equally.

Chris Hermanski commented that he is an advocate of education and has worked with the Agency over the years in crafting rules to strengthen things so we can stay in business but also attempt to professionalize and "raise the bar" for people doing property management. He agreed with Mr. Hoover that quicker activity is needed on the criminal side when people have crossed the line and are stealing money. Unfortunately, in our industry it can happen very quickly because of the trust that we are held to. Mr. Hermanski asked if it was a licensee that was a property manager, or a broker. Mr. Hoover responded that it was a licensee who was a property manager for an owner. It was the owner who stole and embezzled. Commissioner Bentley reported that the person did not have a property manager license but a broker license. He explained that there are three basic licenses: the broker license, which is the entry level license to be able to do brokerage activity; a principal broker license that requires a minimum of three years experience in the business; and a property manager license which allows people to do only property management. People who have broker and principal broker licenses can also do property management. In this particular case this person was a principal broker and so had the highest level of license that the Agency offers. That licensee was not the person taking the money but an owner of that entity who is allowed to do so, who was also unlicensed and outside of our area of control. They were working for the principal broker. Mr. Hermanski continued that we have been trying to "raise the bar" on the property manager licensees by providing more education and mentoring before they can go out on their own.

Mr. Hoover replied that he appreciated all the discussion. If there is going to be "push back" in terms of creating law schools or something similar, the issue is how the authority is granted to the Real Estate Agency to be able to go to law enforcement or the DA's office to make something happen promptly. Joann Hansen reported on a similar case in her county, but the difference was that the person who was working for the broker who embezzled. The Agency was contacted and within a day the Agency was auditing books and records. Within two weeks that individual was arrested and indicted. The broker had real estate business insurance that included property management. Lee Dunn asked Mr. Hoover if he thinks it would make any difference if, in order to run a property management company and own that company, that a license should be required. That would give the Agency full authority to take action. Mr. Hoover responded that he did not personally think so. It is a step that may well happen but it would not solve the problem if somebody is going to figure out a way to steal.

Mr. Dunn added that if people were licensed we would have people who knew what they were doing and had some liability. Then if the Agency investigates fully and finds that someone has done something criminal then that information can be turned over to the prosecutor, but if they are not licensed it is pretty hard to complete an investigation. Commissioner Bentley added that the Agency has investigated unlicensed activity quite frequently, both on the brokerage side and occasionally on the property management side. Our rules require that you must have a licensee that is a broker or is a property manager. When we get a complaint that complaint goes to a manager who reaches out to the licensee the complaint is against to obtain that side of the situation before making a decision whether or not to move forward with an investigation. If it is in an area of law for which we have responsibility and there is even a hint that it might be in that area, we will conduct an investigation. Once that investigation is completed and written up, it goes to the manager of the regulations division who will review it and make a determination on what kind of activity needs to move forward. We then issue that individual a notice of our intent and what we are planning to do if we are going to sanction that person. They have a legal right to challenge and we need to work our way through the process. That does take time. If we determine there is an issue and we have concluded that process, we can notify the authorities if there is theft or some sort of criminal activity. We are a licensing agency and do not have the authority to force any criminal entity to take any action. We can

notify them and then the ball is in their court. Mr. Hoover feels we should have the authority to force some entity to do that.

Chair Kegler advised that he intended to gather enough information so the issue can be addressed at the next board meeting. Ms. Soto was asked to summarize the discussion during the next week or so and send information to the board members to look at it. Mr. Hoover is requesting that the Agency be empowered to enforce the law wherein at this point we are a licensing agency.

**III. REQUESTS FOR WAIVERS-Waiver request log. (no changes).** Chair Kegler explained the process involved to request a waiver from experience requirements.

**IV. BOARD ADVICE/ACTION**

**A. Senate Bill 640 Law and Rule Update Course/Stacey Harrison (handout provided in packet).** Ms. Harrison summarized the handout provided and respectfully asked that the Board approve the Senate Bill 640 Law and Rule Update Course. Marcia Edwards suggested that access to trends over the last two years be included in the course. Ms. Harrison responded that providers should look at topics and go through recent cases and find pattern from administrative actions. Byron Hendricks suggested that trends would assist in providing the best education available. Commissioner Bentley clarified that the Board has the authority to approve or disapprove the course.

**MOTION TO AMEND THE LAW AND RULE REQUIRED COURSE "LARRC" EFFECTIVE JULY 1, 2010 TO DECEMBER 31, 2011 TO REFLECT REVIEW OF ADMINISTRATIVE ACTIONS CITED IN OREN-J UNDER ADDITIONAL COURSE TOPICS BY MARICA EDWARDS.**

**MOTION CARRIED BY UNANIMOUS VOTE**

**MOTION TO APPROVE THE LAW AND RULE REQUIRED COURSE "LARRC" EFFECTIVE JULY 1, 2010 TO DECEMBER 31, 2011 AS AMENDED BY BYRON HENDRICKS**

**MOTION CARRIED BY UNANIMOUS VOTE**

**B. New test provider, RFP testing service, begins July 1, 2011/Erica Kleiner.** Ms. Kleiner reviewed a PowerPoint presentation (Exhibit A)

**MOTION TO RECOMMEND THE FORMATION OF A COMMITTEE COMPRISED OF BOTH AGENCY STAFF AND BOARD MEMBERS TO DETERMINE THE PROCESS FOR THE RESEARCH REVIEW AND IMPLEMENTATION OF AN EXAMINATION PROVIDER/ADMINISTRATOR.**

**V. COMMUNICATIONS – ADMINISTRATIVE ACTIONS SUMMARY**

**VI. OREGON REAL ESTATE NEWS JOURNAL-Chair Kegler.** Bob LeFeber to submit article for June issue and Kim Medford to submit article for September issue.

**VII. REPORTS**

**A. Chair Kegler.**

**B. Commissioner Gene Bentley.** Commissioner Bentley reported that the testing process is in progress at this time. He also stated that a number of work groups met to discuss six housekeeping items. The Agency had the opportunity to meet with other agencies regarding Senate Bill 2191. Oregon Real Estate Agency will have information in FAQs on the website. The educational advisory groups will include people with education knowledge and will be advisory in nature only. Commissioner Bentley introduced the new Chief Executive Office for Oregon Association of Realtors, John Wallace.

**C. Agency division reports-Deputy Commissioner Dean Owens (reports provided in packet)**

1. **Regulation Division-Selina Barnes.** Ms. Barnes stated the Regulation Division has turned over the client trust account mail in audits to Education Division. Ms. Barnes also reported that escrow functions have been moved from the Regulation Division to the Licensing Division. Ms. Barnes reviewed the statistics provided in the handout.
2. **Licensing Division-Laurie Hall.** Ms. Hall reviewed the statistics provided in the handout. Ms. Hall stated that staff is trying to direct all licensees to the website for resources and information.
3. **Education Division-Stacey Harrison.** Ms. Harrison reviewed the statistics provided in the handout and stated that the Education Division is responsible for implementing Senate Bill 640 changes. Ms. Harrison also reported that the last paper issue of the OREN-J will be going out in a few weeks and will go live in September and the subscription link is now available on the Oregon Real Estate Agency website.
  - a. **PowerPoint Presentation re: Changes resulting from SB640.** Ms. Harrison presented PowerPoint presentation.
4. **Land Development Division-Laurie Skillman.** Ms. Skillman reviewed the statistics provided in the handout and stated that things have not changed much in the Land Development Division. Ms. Skillman also state that the tracking is also maintaining. Ms. Skillman stated that the Agency is a part of the ARELLO timeshare registry which is a new program for very big timeshare companies to file electronically.
5. **Administration/Information Systems Division-Erica Kleiner.** Ms, Kleiner reviewed the statistics provided in the handout. She stated that both prinitng and postage costs will go down significantly due to the OREN-J going live in September. Ms. Kleiner reported the procurement projects the Agency is currently involved in are progressing in timely manner.
6. **Information Technology Division-Dean Owens.** Mr. Owens explained that the Agency is constantly tested and audited by outside entities and the Information Technology Division well surpasses the expectations by constantly making sure our security is not breached.
  - a. **Licensing update.** Mr. Owens explained that Agency is reviewing proposals received to date and a full report will be given at next board meeting.

**VIII. ANNOUNCEMENTS-Next meeting:** August 2, 2010 in Enterprise, Oregon will be hosted by the Wallowa County Board of Realtors.

**IX. ADJOURNMENT**

Respectfully submitted:

  
**GENE BENTLEY**  
**COMMISSIONER**

Respectfully submitted:

  
**ART KEGLER**  
**BOARD CHAIR**