



Oregon Real Estate Agency

Complaints & Investigations
Compliance Review Process



OREGON ASSOCIATION OF REALTORS
OREGON CONVENTION CENTER
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Selina Barnes
Regulation Division Manager



- **Complaints**
- **Investigations**
- **Settlement Conferences**
- **Hearings**

- **Typical complaints**
- **Common violations**
- **Staying in compliance with the laws and rules**

A complaint has been filed, what now?



- **Initial review for Agency jurisdiction**
- **Licensee receives complaint notification letter**
 - Includes copy of complaint
 - Submit written response
 - Submit documentation
- **Licensee response reviewed**
- **Complaint evaluated**
 - Close
 - Educational Letter of Advice (ELOA)
 - Investigation opened

Investigation Process



- **CONFIDENTIAL**
- **Gather & analyze documents**
 - Licensees on both sides of transaction
 - Buyer and seller
 - Escrow
 - Property ownership records
- **Conduct interviews**
- **Investigative reports**

Management Review of Investigation



- **Determine if violation has occurred or not**
 - Review case file & investigation reports
- **If violation has occurred, consider any:**
 - Significant damage or injury
 - Dishonest or fraudulent conduct
 - Mitigating circumstances
 - Progressive discipline
 - Consistency of administrative actions
- **Decide appropriate action to be taken**

Settlement Process & Hearing



- **Licensee receives settlement offer letter**
 - States violations identified by Agency
 - Offers proposed administrative action
- **Settlement conference**
 - Informal
 - Discuss violations & proposed administrative action
 - Resolve without a hearing
- **Contested case hearing**
 - Formal
 - Heard by Administrative Law Judge (ALJ)
 - Both sides present evidence & testimony

Case Resolution & Administrative Actions



- **Close – no action**
- **Educational Letter of Advice (ELOA)**
- **Administrative Action**
 - Reprimand
 - Suspension
 - Revocation
 - Civil Penalty
- **Public record (no longer confidential)**
 - Administrative actions published in OREN-J
 - Become part of the licensee's record at the Agency

Statistics



In the past 3 years (October 2008 – September 2011)

- **1074 complaints were received**
- **523 investigations opened**
 - 48% of the complaints
- **264 administrative actions taken**
 - 24% of the complaints
 - 50% of the investigations
- **Includes unlicensed activity**

“Root” cause of many complaints



- **Lack of communication**
 - With client - not returning calls, texts, emails
 - Failure to keep Principal Broker informed
- **Rude behavior**
- **Failure to educate client**
- **Outside area of expertise**
- **Verbal vs. written**
- **Unaware of law requirements**
- **Principal Broker unaware of Broker’s activities**

Misrepresentation, Disclosures & Agency



- **Misrepresentation in advertising**
- **Promises and guarantees**
- **Square footage, permits**
- **Material facts**
- **Disclosed limited agency relationship**
- **Personal transactions**

Timelines



- Timely presentation of offers
- Seller's property disclosures
- Earnest money redemption
- Inspection periods
- Contingency deadlines
- Closing date extensions

Documentation & Records



- Failure to include all terms & conditions
- Sign documents for clients without authorization
- Turn in paperwork to Principal Broker

- Phone and/or transaction log
- Save email communications

Stacey Harrison,
Education Division Manager



Compliance Reviews

- **Benefits:**
 - Voluntary
 - Educational in nature
 - Learn how to comply with OREA statutes and rules
 - Stay in compliance before issues discovered through investigation or complaint

History



- Formerly conducted on-site
- Not voluntary
- Could result in disciplinary action
- Limited number completed
- Legislature requested Agency to explore more cost effective and efficient method

Electronic Self-Administered Compliance Review



- **Electronic format**
- **Can reach more licensees using less Agency resources**
- **Voluntary**
- **Educational in nature for both licensee and Agency**
- **Principal Broker compliance review implemented April 2010**
- **Property Management compliance review implemented March 2011**

Principal Broker Compliance Review Invite Letter- Mailed Monthly



Dear «Full_Name»,

You are receiving this letter because you currently hold an active principal broker license. If you are responsible for your own company as a sole proprietor or acting in a managing or supervisory capacity within a company, the Oregon Real Estate Agency would like to invite you to participate in a voluntary electronic self-administered compliance review for real estate brokerage.

This voluntary compliance review is designed to help you meet the requirements of Oregon Revised Statutes (ORS) chapter 696 and Oregon Administrative Rule (OAR) chapter 863, divisions 14 and 15 and will assist the Agency in focusing its educational efforts.

Should you choose to participate in this voluntary compliance review, it must be fully completed no later than _____.

You will find a link to the voluntary compliance review for real estate brokerage on the Agency's website at www.rea.state.or.us on the left hand side. You will need to use the following password to access the review: _____.

Though not an extensive and complete compliance review, the Agency hopes that by drawing your attention to any apparent areas of non-compliance, you will be able to implement appropriate policies and procedures to correct any potential compliance issues in the future.

The information collected from the review will remain with the Agency's Education Division. Based on the information gathered, Education Division staff may contact you to confirm your understanding of relevant statutes and/or rules.

If you are a principal broker doing mainly property management, there is an option of participating in a voluntary electronic self-administered compliance review for property management. If you would like to participate in the property management review instead, please contact me for further information.

Should you have any questions about participating, or while completing the compliance review, please contact me directly at (503) 378-4698 or via e-mail at _____@state.or.us.

Sincerely,

Compliance Specialist

Starting the Compliance Review Process



- Participants log in with a password through link on Agency's website.
- Compliance Reviews are done through Survey Monkey
- Survey remains open for approximately 30 days
- Approximately 3 hours to complete

Link to Compliance Review on Agency Website



OREGON.gov

TEXT SIZE: A+ A- A • TEXT ONLY

Select Language

Google™ Custom Search

Find

Real Estate Agency

Department

About Us

Contact Us

Real Estate Board

Consumer Information

Complaint Process

Licensee Search

Real Estate Educators

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Oregon Real Estate
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Compliance Review -
Real Estate Brokerage

Compliance Review -
Property Management

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Frequently Asked
Questions

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< || > 3 of 3

Real Estate Licensee Resources

Online License Renewal

Renew online by clicking the "Online License Renewal" link below, then follow the steps to register. (If you have previously registered but forgot your username and password, you can register again and recreate them.)



Renew your license and pay the appropriate fee. This must be completed by the last day of the month in which your license expires to be considered on-time.

[Online License Renewal](#)

Continuing Education Requirements

Read about the continuing education requirements for active renewal of broker, principal broker and property manager

Announcements and Topics of Interest

Your Real Estate Agency on the Cutting Edge - Presentation

The Oregon Real Estate Agency's slide presentation given at the Oregon Association of Realtors-sponsored event now available.

[Your Real Estate Agency on the Cutting Edge - PDF](#)

Office Closures

The current recession has reduced state revenues, and has forced the legislature to make deep cuts in agency budgets. Coping with these cuts requires us to close our office on certain days.

[Office Closure Dates](#)



Update Your Registered Business Name with the

How to Get a License

Links to Other Resources

Appraiser Certification and Licensure Board

Building Codes Division, DCBS

Construction Contractors Board

Finance Division, DCBS

Insurance Division, DCBS

Consumer Protection, Department of Justice

Oregon State Bar - Landlord Tenant Law Info

Principal Broker Sample Question



Oregon Real Estate Agency - Compliance Review - Brokerage(ver. 2)

Multiple Principal Brokers in Business Together

ORS 696.310 states that if two or more principal brokers are in business together, they shall be equally responsible for the conduct of other principal brokers, brokers associated with the principal brokers and other employees employed by the principal brokers.

The law also requires that the principal brokers execute a written agreement between them and establish office policies specifying the supervisory control and responsibility for each principal broker who is a party to the agreement.

*** 13. Is there more than one principal broker in this office?**

Yes

No

Principal Broker Sample Question



Oregon Real Estate Agency - Compliance Review - Brokerage(ver. 2)

Records - Listings

ORS 696.280 requires that complete and accurate records, including any items generated through e-mail or other electronic means, of all professional real estate activity conducted by and through the principal broker must be maintained in Oregon for a period of not less than six years. OAR 863-015-0250 says these records include, but are not limited to, the following:

- Continuing education certificates;
- Written agreements creating an agency relationship signed by all parties;
- Written agreements for the listing, sale, purchase, lease, lease option or exchanges of real property generated by a broker and signed by all parties;
- Any receipt issued by a broker to evidence acceptance of funds or documents;
- Vouchers, bills or obligations paid by the broker for the account of the client or customer;
- Any documents provided to or received by the client through the broker within the scope of an agency relationship;
- Any closing statements when closing is performed by the principal broker; and
- All financial records as required by OAR 863-015-0255 and OAR 863-015-0275.

To answer the following questions, please find one listing file to review.

Continued Sample Question



43. OAR 863-015-0260 allows records to be stored at:

- The main office;
- The branch office where the activity originated; or
- A single location outside of the main or branch office, as long as the principal broker has notified the Agency in writing of the location prior to moving the records.

Where is the listing file stored?

44. Is this file for a residential or commercial property?

- Residential
- Commercial

Property Management Sample Question



Oregon Real Estate Agency - Compliance Review - Property Management

Records - Property Management Agreements

A property manager or principal broker may not engage in the management of rental real estate without a written, unexpired property management agreement between the owner and the licensee.

Per OAR 863-025-0020, a property management agreement must include:

- the address or legal description of the owner's rental real estate;
- the duties and responsibilities of the licensee and the owner;
- the authority and powers given by the owner to the licensee;
- the term of the agreement and the method of termination;
- the terms and conditions of the agreement;
- the management fees, applications fees, screening fees, rebates, discounts, overrides and any other form of compensation to be received by the licensee for management of rental real estate, including when such compensation is earned and when it will be paid;
- a description of the monthly statements of accounting that the licensee will provide to the owner;
- what happens to records after termination of property management agreement;
- disclosure of the use of employees or a business in which the licensee has a pecuniary (monetary) interest, that will provide service for the owner's property;
- a statement that the licensee will disclose to the owner in writing the use of any employee or business in which the licensee has a pecuniary interest to provide services for the owner's property, if not disclosed in the property management agreement;
- an identifying code;
- the signatures of the property owner and the property manager or principal broker [or someone authorized to sign per OAR 863-025-0020(6)]; and
- the date of the agreement.

Please select a property management agreement from your records to answer the next set of questions.

Sample Question Continued



25. Indicate the identifying code given this property management agreement.

26. Please indicate the address or legal description for at least one of the owner's properties subject to the agreement.

27. List the duties and responsibilities of the property manager/principal broker per the property management agreement.

(You may copy and paste the information directly from the agreement into the answer section if you have the ability to do so.)

CE Questions



19. When did the new continuing education requirements become effective?

- July 1, 2010
- January 1, 2011
- January 1, 2010
- Don't know

20. On which website can you find the list of certified continuing education providers?

- Oregon Real Estate Agency
- Oregon Dept. of Education
- Oregon Assn. of Realtors®
- Don't know

21. Who is responsible for certifying on your next license renewal form that you have met the continuing education requirements necessary for license renewal?

- My principal broker
- I am responsible
- My continuing education providers
- The office manager or bookkeeper

After the Compliance Review



- Agency Education Staff will review each answer
- Education Staff will set up a phone appointment to discuss your answers with you
- Possible follow-up email after telephone appointment with relevant rule and law

What licensees have to say about the Compliance Reviews



Property Management Compliance Review Comments:

- Well worth the time spent on the review. With rules and laws constantly changing it's always great to take the time to go over some of the new rules
5/1/2011 8:13 AM
- This experience made me review our Property Management Agreement and see where we might be able to make it better.
4/30/2011 7:53 PM
- The review was helpful and did point to some areas where we will do further study of the Oregon Statutes and regulations.
4/27/2011 3:54 PM
- Well, it was a learning experience. It clearly identified areas that I am not in compliance. For example updating my Management Agreement is imperative if I continue managing property. Also I need to research the requirements for a Security Deposit account as I may or may not be in compliance.
4/28/2011 1:05 PM

What licensees have to say about the Compliance Reviews



Principal Broker Comments:

- Very helpful in reminding me as the Principal Broker what my obligations are
4/26/2011 4:32 PM
- Confirming that we are doing a good job of supervising our agents.
4/20/2011 11:38 AM
- Good. There are a couple of items that I can improve on that were brought to light from this review.
4/30/2011 11:11 AM
- Excellent review, thanks for the opportunity.
4/29/2011 3:51 PM
- Interesting experience. Encouraging to know that my record keeping seems to be in compliance!
4/4/2011 5:25 PM

Compliance Review Statistics



- **Statistics on areas of non-compliance are recorded by county and company size**
 - Companies with less than 5 licensees
 - Companies with 5 to 50 licensees
 - Companies with more than 51 licensees

Results- Principal Broker Compliance Review



- Total of 172 completed within a 14-month period
- Monthly participation rate between 18% and 44%
- Most common areas of non-compliance:
 - Clients' trust accounts
 - Record keeping including areas of closed transactions and rejected offers
 - New continuing education requirements (law effective January 1, 2011)

Results- Property Management Compliance Review



- Total of 54 completed within a 2-month period
- Monthly participation rate between 20% and 29%
- Most common areas of non-compliance:
 - Clients' trust accounts
 - Security deposits
 - Written company policies
 - New continuing education requirements (law effective January 1, 2011)

What's next?



- Agency will continue to analyze data and use information to develop educational opportunities such as:
 - Publications
 - Web-based training
 - Revision of pre-license education
 - Lists of suggested continuing education courses for certified continuing education providers
 - Possible on-site visits to individual counties

Questions?



- Visit www.rea.state.or.us
- Call the Agency: 503-378-4170
- E-mail the Agency at orea.info@state.or.us
- Subscribe to Agency electronic publications
 - *Oregon Real Estate News-Journal*
 - *Commissioner's Bulletin*