

Legal Questions & Answers

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Question: Is an individual who wishes to actively rent vacation properties required to be licensed? For example, if an individual requested that a relative manage his/her property for overnight and vacation rentals, must the relative be licensed to practice real estate?

Answer: Management of real estate for any duration likely requires a real estate license. However, if the relative executed a power of attorney in which he/she was appointed as the individuals' attorney in fact, and the power of attorney was recorded against the property, the relative may be exempt from licensure under ORS 696.030(3).

Question: We have a transaction where the buyer has attempted to terminate the transaction by claiming that the property did not appraise at the agreed sale price. Accordingly, we have requested a copy of the buyer's appraisal report; however, the buyer has refused to provide the report, stating that a letter from the lender is sufficient documentation for termination. The buyers have put enough money down that the low appraisal does not affect the loan. Despite this, the Oregon Purchase and Sale Agreement states that the "lender's appraisal shall not be less than the purchase price..." How do we proceed with the transaction?

Answer: The contingency that appears in line 62, subsection 2, of the OREF Residential Real Estate Sale Agreement provides that the lender's appraisal shall not be less than the purchase price. Section 2, lines 66-67 states that if the buyer received actual notification that the financing contingency has failed, the buyer shall promptly notify the seller. The notification does not require the appraisal, but would require proof that the property did not appraise for the purchase price. As appraisals are not necessarily shared by lenders, it would not be unusual for the lender to provide a letter stating the above. Additionally, it would be helpful for the lender's notification to state what the appraised amount was so that the parties could deal with the failure of financing contingencies as set forth in paragraph 3.2.

The contingency regarding the appraisal relates to the appraised value being not less than the purchase price. Therefore, the buyer's down payment does not appear to be the primary issue.