

## Update on Home staging article printed in 4<sup>th</sup> Quarter, 2010 January 28, 2011

The original article on this subject has caused quite a stir, leaving the Commission Staff quite impressed with the number of questions it has prompted, because it validates to us that real estate licensees *do* read the “Commission Comment”.

The reason the article was initially drafted was because of the numerous complaints the Commission has opened on individuals who are performing licensed activities without a license and refer to themselves as a “home stager”, or that they “provide home staging services”. The area of confusion for some, is due to the fact that a real estate broker’s license is not required to redecorate a property or place upscale furnishings in a property (as commonly seen on several shows broadcast on HGTV and the like); **however a license is required** to solicit for tenants, negotiate with landlords and tenants, and hold oneself out as engaged in this activity all with the expectation of receiving compensation.

A sample scenario is as follows:

1. An individual approaches a licensee to provide home staging services on a property that is vacant or will soon be vacant, and the individual states they have access to upscale furniture and will redecorate the property for a fee.
2. Licensee suggests the individual contact the property owner to see if they would be interested in the service.
3. Individual contacts the property owner and states that they can assist the owner in redecorating the property by providing upscale furniture **and** they can provide a person to live in the home until the property is sold thus providing security for the property and increase property marketability. Discussions occur between the property owner and the individual that persons who live in the property will pay reduced rent and/or a security deposit all of which is to be paid directly to the individual for their home staging services.
4. Individual advertises in local media or on web: “Home stager looking for persons with upscale furnishings and a place to temporarily live – cheap rent, very exclusive home, call ....”.

The activities listed in this scenario **must be performed by, or under the supervision of, a real estate broker**. If licensed associates are performing these activities outside their broker’s supervision, they may be in violation of working outside of their broker’s knowledge; acting as a broker; and/or knowingly cooperating with an unlicensed person to perform licensed activities.

In addition, the owner of the property (landlord) and the person who rents the property (tenant), fall under the jurisdiction of the Landlord and Tenant Act, Title 41, Oklahoma Statutes, Sections 101 – 136.

If you have further questions, please contact the Oklahoma Real Estate Commission at 405-521-3387 or toll free 1-866-521-3389.

Article as it appeared in the 2010 4<sup>th</sup> Quarter Commission Comment

## Home Staging and Property Management Requires a Real Estate Broker License

**I**t has been brought to our attention that numerous people are performing activities that require a broker's license, i.e., home staging and property management. These activities include, but are not limited to, entering into a contract with a property owner/seller to obtain authority to stage the seller's home with upscale furnishings and a tenant/home manager, all while the home is listed for sale.

It has also been brought to our attention that numerous sales and broker associates are performing this same type of activity outside their broker's supervision. All licensed activities must be performed in the name of the associate's managing broker and all funds received by the associate are to be immediately turned over to the associate's broker.

It is our understanding that once the seller has agreed to allow the associate or unlicensed person access and authorization to their property for the purpose of home staging, the associate or unlicensed person then solicits for a tenant/home manager and the tenant/home manager pays a reduced rent amount. In some cases, a security deposit may be requested and the rent money that is paid by the tenant is paid directly to the associate or unlicensed person — no money is transmitted to the broker or owner/seller.

This type of activity requires: 1) a broker's license; 2) a brokerage service agreement with the owner/seller; 3) a brokerage service agreement with the tenant/home manager; 4) security deposits to be maintained in a trust account; and 5) requires compliance with the landlord and tenant act. Further, this type of activity may require that rents and/or additional funds be deposited and maintained in a trust account and then properly disbursed to the appropriate owner of the funds.

Home staging and property management carries with it liability issues, landlord and tenant compliance, disclosure requirements (lead-based paint, etc.) and upkeep and maintenance issues all of which affect the owner/seller and the tenant/home manager.

Managing brokers should send out a special notice to their associates and branch offices requesting immediate compliance. The Commission requests that anyone having knowledge of unlicensed persons performing these activities or associates performing these activities outside the supervision of their broker to please contact the Commission's Investigative Division with sample advertising, contact information, etc. The Commission appreciates your cooperation.