

Simple yes/no questions explain complex issue

Do you buy, develop and sell property and want to make sure you're on the right side of ORS 701 by not acting as a contractor?

Oregon law defines a contractor as the following: "Contractor" means a person who, **for compensation or with the intent to sell, arranges or undertakes** or offers to undertake or submits a bid to construct, alter, repair, add to, subtract from, improve, inspect, move, wreck or demolish, **for another**, any building, highway, road, railroad, excavation or other structure, project, development or **improvement attached to real estate or to do any part thereof**.

All contractors must be licensed with the Oregon Construction Contractors Board (CCB). Three questions, according to the CCB, will help you determine whether you may be operating as a contractor.

- | <u>Yes</u> | <u>No</u> | |
|-----------------------------|--------------------------|--|
| 1. <input type="checkbox"/> | <input type="checkbox"/> | Is the work you're doing construction-related ? (It doesn't matter if it's new home construction, remodeling, upgrades or repairs. It's also irrelevant whether you do the work yourself or arrange for others—licensed or unlicensed contractors—to improve the property.) |
| 2. <input type="checkbox"/> | <input type="checkbox"/> | Are you offering the property for sale ? |
| 3. <input type="checkbox"/> | <input type="checkbox"/> | Are you the direct beneficiary of the sale (because you are not acting as an agent for the owner)? |

If you answered yes to all three questions, you are probably violating the law and working as a contractor without a license—*unless* you meet the following exemption in ORS 701.010:

If you own and either occupy or rent the property, you are NOT acting as a contractor by doing the above work. If you own and live in the home or if you own the property and have renters, you are not a construction business and need no CCB license.

Realtors who buy and move into existing homes, fix them up and sell them fit this exemption because they own and either occupy or rent the home.

Realtors, however, who build new homes to live in and then sell them on a regular basis should be aware of an Oregon law that may affect them. ORS 701.055(8) says that the CCB has prima facie evidence that someone is operating as a contractor and needs a CCB license if the person sells two or more new homes within a three-year period. In other words, individuals are considered contractors if they arrange for or do construction work on two or more newly-built properties for compensation and with the intent to sell them within any 36-month period. In any three-year period, the law says you can build one new home, live in it and sell it. More than that and you're a contractor who needs a CCB license.

For more information about Realtors acting as contractors, contact Jerry Walton in the CCB's Enforcement Section (503-378-4621 ext. 4049).

For information about how to get licensed, go to www.ccb.state.or.us or call the CCB at 503-378-4621.