

FOR IMMEDIATE RELEASE

March 15, 2012

CONTACT:

Kelli Thompson, Oregon Realtors
503-362-3645, kthompson@oregonrealtors.org



Two Women Take on City Hall – And Win *Oregon Realtors Prevail on Business License Tax Issue*

Salem, Oregon – Diane Rulien and Beth Kellen really never intended to get involved in a four year legal battle that ended in victory at the Supreme Court last week. They were just a couple of Portland Realtors, spending most of their working hours meeting with clients, showing homes and pouring over listings. There was just something that “felt unfair” about the city’s Business License Law that applied to real estate agents, as well as principal brokers.

“It just didn’t feel right. Everyone I talked to seemed to think it was unfair. And yet, no one was really fighting it,” said Rulien, a Realtor with RE/Max Equity Group with over 30 years of experience.

So the two Realtors took the fight to the city. They filed suit against the City of Portland, arguing they were subjected to unfair taxation when, in 2008, the City amended its Business License Law and took the position that the business income of real estate brokers, and not merely principal real estate brokers, was subject to taxation under the revised law.

As plaintiffs, there was much patience and waiting involved during this process. The Oregon Association of Realtors was extremely resourceful and spent ample time working with the attorneys and in the courtroom.

The hardest part was the decision to put their names on the case. Much of the concern revolved around being branded troublemakers and how that perception could possibly affect their business. Instead, the two women said they’ve been overwhelmed with appreciation and gratitude. “I think people admire us for taking a stand. There hasn’t been any back lash for seeing out this process,” Kellen said.

Victory came on March 8, 2012, when the Oregon Supreme Court formally denied the City of Portland’s petition to review a ruling on the Business License Law that Realtors challenged in 2009.

“This is a really good clarification of the law. It has given us a solid understanding of what the rules are and how they should be enforced,” Rulien said. “From the very beginning, this was all about what is fair and ensuring that what the city was doing was proper and legal. Now we know.”

The Oregon Association of Realtors backed Rulien and Proctor and filed suit in 2009, seeking a declaration that the City’s tax violated ORS Chapter 696 which prohibits counties or cities from imposing a business license tax on an “individual licensed as a real estate broker who engages in professional real estate activity only as an agent of a principal real estate broker.”

On September 8, 2011, the Oregon Court of Appeals issued its decision in the case of Proctor and Rulien v. City of Portland, in which the Court held that the City of Portland’s Business License Law constitutes a “business license tax” that cannot legally be applied to real estate brokers. In November 2011, the City petitioned the Oregon Supreme Court to review and reverse the Court of Appeals decision.

Based on this decision, the City of Portland will no longer be able to tax the business income of real estate brokers within the City. As a result of the Court of Appeals' decision, other real estate brokers who have paid the license fee since 2008 may also be entitled to refunds.

“I got involved with this because it was a cause someone needed to fight for,” Kellen said. “It helps Realtors, sure. But it also helps regular people see that they can make a difference.”

###

The Oregon Association of REALTORS® was established in 1932 to organize the real estate profession in Oregon. Today, the Association is a force for education and a business and legislative advocate for free enterprise and private property rights in Oregon.