

EDUCATION REVIEW COMMITTEE
REAL ESTATE COMMISSION
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii
www.state.hi.us/hirec

MINUTES OF MEETING

The agenda for this meeting was filed with the Lieutenant Governor's Office as required by Section 92-7(b), Hawaii Revised Statutes.

Date: Thursday, December 13, 2001

Time: 10:00 a.m.

Place: Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Present: Charles Aki, Chair
Patricia Choi, Vice Chair
Michael Ching, Member
Alfredo Evangelista, Member
Mitchell Imanaka, Member
John Ohama, Member
Iris Okawa, Member
Peter Rice, Member

Calvin Kimura, Supervising Executive Officer
Alan Taniguchi, Executive Officer
Diane Choy Fujimura, Senior Real Estate Specialist
Lorene Arata, Real Estate Specialist
Cynthia Yee, Senior Condominium Specialist
Cheryl Leong, Condominium Specialist
Gina Watumull, Condominium Specialist
Shari Wong, Deputy Attorney General
Karyn Takahashi, Recording Secretary

Others: Barbara Dew, Coldwell Banker Pacific Properties
Herb Conley, Coldwell Banker Pacific Properties
Elizabeth Dower, Dower School of Real Estate
Marsha Shimizu, Hawaii Association of REALTORS®
Brian Thomas, EdVentures/Continuing Education Provider
M. Russell Goode, Hawaii Association of Real Estate Schools

Excused: Casey Choi, Member

Call to Order: Chair Aki called the meeting to order at 10:00 a.m., at which time quorum was established.

ERC Chair Report: Chair Aki wished everyone a happy holidays.

SEO's Report: Announcements, Introduction, Correspondence, and Additional Distribution

Upon a motion by Commissioner Evangelista, seconded by Commissioner Rice, it was voted on and unanimously carried to add the following to the agenda:

5. Prelicensing Education Administration, Curriculum, Schools, Instructors, and Equivalency
 - f. Barbara Dew Request
6. Administration of Examinations
 - g. ASI Test Problem

Minutes of Meetings

Upon a motion by Commissioner P. Choi, seconded by Commissioner Evangelista, it was voted on and unanimously carried to accept the minutes of the November 14, 2001 Education Review Committee meeting as distributed.

Continuing Education: Applications

Course – “Disclosure Law in Hawaii,” Author/Owner: Thomas J. Douma, Provider: Thomas J. Douma, Course Category: Real Estate Law, Course Clock Hours: 3

Upon a motion by Commissioner Ching, seconded by Commissioner Rice, it was voted on and unanimously carried to recommend approval of "Disclosure Law in Hawaii" as a three clock hour continuing education elective course, under the course category Real Estate Law.

Prelicensing Education: Barbara Dew Request

Ms. Barbara Dew and Mr. Herb Conley were present.

Mr. Conley stated that when the school was first started, the idea was to help their recruitment efforts. He stated that other companies had schools also; however, they did not have a reputation as a school so they kept the operation small. Their strategy was to have a lower price to attract people; however, the strategy backfired as there was a limit of 20 people per class and only one or two out of the 20 joined the firm.

Mr. Conley stated that they are just trying to attract people who are interested in joining their firm. If an individual joins their firm they will reimburse the school fee. Mr. Conley stated that the firm would recruit and interview interested individuals and if they are accepted to join the firm, the firm would pay for their schooling. He stated that the school is not making the offer but the firm, Coldwell Banker Pacific Properties, is. He added that advertising and promotion would be from the company and not the school.

Commissioner Evangelista inquired if the advertising would still refer to the school. Mr. Conley replied yes, they are offering free tuition to their school.

Commissioner Ohama stated that at the last meeting the Committee discussed problems with Section 16-99-68 (e), (f) and (g), Hawaii Administrative Rules. Section 16-99-68(g) states "No school shall make or imply any guarantee of employment or income to any student or prospective student unless the school can in fact guarantee employment or income and the school does so in writing."

Commissioner Ohama added that although the firm is advertising there may be some confusion. He also stated that Section 16-99-68(f) states "No school shall solicit students in "help wanted" or other employment columns in newspapers or other publications or in any other form of advertising other than that which shows itself clearly to be that of a school seeking to enroll students." He noted that the motive is purely a little different as they are trying to recruit employees not only enroll students.

Commissioner Ohama stated that Section 16-99-68(e) states "No school shall advertise that it is endorsed by business establishments, organizations, or individuals engaged in the kind of work for which training is given until written evidence of this fact is filed with the commission."

Commissioner Ohama stated that with these rules in place it is a little fuzzy and doesn't know how to make it clearer to lessen the confusion.

Mr. Conley stated that they are open to changes to make this idea work. One idea is to only advertise the company and stop advertising the school. Another idea would be to advertise the fee for the course much higher than other schools.

Commissioner Rice stated that their intent and purpose to recruit is not in sync with the concept of a precicensing school.

Commissioner Ohama noted that another problem is that we want schools to provide equal opportunities to any interested parties.

Commissioner Imanaka inquired if they had a proposed ad. Mr. Conley replied yes and passed out a sample copy. Mr. Conley added that he is not proposing a change to the school advertisement.

Executive Session:

Upon a motion by Commissioner P. Choi, seconded by Commissioner Rice, it was voted on and unanimously carried to enter into executive session, pursuant to Section 92-5(a)(4), HRS, "To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities and liabilities;"

Upon a motion by Commissioner Ching, seconded by Commissioner P. Choi, it was voted on and unanimously carried to move out of executive session.

Commissioner Ching stated that the Committee wrestled with their proposal. He stated that the intent of a school is to educate and not primarily recruit. The competition between the schools is wonderful. Commissioner Ching stated that the Committee can't tell them how to run their business; however, the Committee found it disturbing that they set up the school primarily for recruitment.

Mr. Conley stated that they did not create the school to compete with other schools—there are a lot of schools—their motive was not profit.

Commissioner Ching stated that the Committee feels that the proposed advertisement is not in the spirit of Chapter 99, Hawaii Administrative Rules, in particular Section 16-99-68. The advertisement is misleading and more thought needs to go into it.

Mr. Conley responded that they did not want to be controversial and they will continue to work on it. He added that it was just an idea and they wanted everyone to be comfortable with it and they are willing to come up with other concepts.

Commissioner Ohama thanked Mr. Conley and Ms. Dew for being so open and stated that they are welcome to continue trying to come up with other concepts. Commissioner Ohama added that this proposed concept does not jive with the intent of the law.

Mr. Conley responded that they would continue to run the current advertisement and if they come up with other ideas they will bring them forward to the Committee.

Administration of
Examinations:

ASI – Quarterly Report

A copy of licensing examination statistics for the period of July through October 2001 was distributed to the Commissioners for their information.

ASI Test Problem

Specialist Arata reported that on December 1, 2001 an examination candidate was caught cheating and ASI has placed the individual on "withhold status," which means that the individual will not be allowed to register to take the examination until the Commission instructs ASI otherwise. SEO Kimura added that the individual was caught reviewing study materials.

SEO Kimura stated that there are a few options—the individual can be barred from taking the exam; barred from taking the exam for a set period of time; or there could be increased security when this individual takes the exam.

Commissioner Evangelista stated that if we bar this individual from taking the exam, we should give the individual a chance to respond and present their side of the story.

Deputy AG Wong stated that the Commission could issue a Commission's Final Order barring this individual from taking the exam for a set number of years.

SEO Kimura stated even if this individual is allowed to take the exam, the Commission will be privy to this information and would need to take this incident in to consideration when the individual applies for a license.

Commissioner Rice suggested sending this individual a letter stating that he is not allowed to take the exam for a period of five years and give the individual a right to a hearing.

Commissioner Evangelista inquired if the individual should be given the right to appear and explain.

Deputy AG Wong suggested the Commission issue a Proposed Final Order; give the individual a right to appear; the individual may or may not appear; and then the Order may be modified.

Commissioner Choi moved to recommend an issuance of a Commission's Proposed Final Order to bar the individual from taking future exams for a period of one year and the individual will be allowed 60 days from the date of the proposed final order to respond and present oral arguments. Commissioner Ohama moved to amend the motion to a period of two years. The motion was seconded by Commissioner Evangelista. The motion was voted on and unanimously carried.

Educator's Forum: **Hawaii Association of REALTORS®** – Ms. Marsha Shimizu reported that they will be having their annual conference on September 5 and 6, 2002; and this conference will include participants from the Pacific Rim. They are expanding the realtors from the continental United States to Asia-Japan, Singapore, Malaysia, China etc. She added that the Commission is also welcome to invite foreign government officials. She reported that they are receiving a great response.

Hawaii Chapter of Real Estate Educators Association – no discussion presented.

Hawaii Association of Real Estate Schools (HARES) – Mr. M. Russell Goode stated that he was present to observe.

Public and Private Institutions of Higher Education – no discussion presented.

Program of Work: Neighbor Island Outreach – Kahului, Maui, January 4, 2002

The next neighbor island outreach is scheduled for January 4, 2002, on the island of Maui. The meetings will be held in the Conference Room of the Maui Board of REALTORS' office, located at 441 Ala Makani Place, Kahului, Maui. The meeting times are as follows:

9:30 a.m.	Laws and Rules Review Committee
10:00 a.m.	Education Review Committee
11:00 a.m.	Condominium Review Committee

Evaluation and Education System for CE and Prelicensing Instructors

A copy of a prelicense instructor/course evaluation was distributed to the Commissioners for their information.

Commissioner Ching stated that instructors should be reminded to use/teach the most up-to-date information.

SEO Kimura stated that Staff is planning on incorporating some of the comments and recommendations from the evaluations into the next issue of *School Files*.

At this time, Mr. Goode stated that one of the problems prelicense instructors face in teaching the latest changes is that the exam does not reflect the change—there is about a one year lag time.

SEO Kimura responded that there has been improvement over the years in updating the exam to reflect law and rule changes.

Real Estate Specialists' Office for the Day – Kahului, Maui, January 4, 2002

Real Estate Specialists Office for the Day will be held on January 4, 2002, 1:00 p.m., in the Conference Room of the Maui Board of REALTORS, located at 441 Ala Makani Place, Kahului, Maui.

New Technology Program and REC Web Site – Statistics, 1st Quarter

Web site statistics for the first quarter of fiscal year 2002 was distributed to the Commissioners for their information.

Open Forum: No discussion presented.

Next Meeting: **Friday**, January 4, 2002
10:00 a.m.
Maui Board of REALTORS
Conference Room
441 Ala Makani Place
Kahului, Maui, Hawaii

Adjournment: With no further business to discuss, Chair Aki adjourned the meeting at 11:15 a.m.

Respectfully submitted by:

/s/ Calvin Kimura
Calvin Kimura
Supervising Executive Officer

January 4, 2002
Date

[] Minutes approved as is.
[x] Minutes approved with changes.

CK:kt
12/19/01