

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: Wednesday, March 13, 2002

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
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

Excused: Iris Okawa, Member

Absent: Casey Choi, Member

Others: Marsha Shimizu, Hawaii Association of REALTORS®
Richard Daggett, Continuing Education Provider and Instructor
Carl E. Choy, Morgan Stanley Dean Witter
Lynne R. Kinney, Morgan Stanley Dean Witter

Call to Order: Chair Aki called the meeting to order at 10:06 a.m., at which time quorum was established.

Chair's Report: No report presented.

Sr. Real Estate
Specialist's Report: Minutes of Meetings

Upon a motion by Commissioner P. Choi, seconded by Commissioner Rice, it was voted on and unanimously carried to accept the minutes of the February 13, 2002, Education Review Committee meeting with the addition of the word "teaching" in paragraph 5, page 3.

Continuing Education: Applications

Course – "Understanding the Hawaii Foreclosure System," Author/Owner: Richard Daggett, Provider: Richard Daggett, Course Category: Real Estate Law, Course Clock Hours: 3

Mr. Daggett was present to answer questions and address concerns.

Commissioner Rice stated to Mr. Daggett that in his materials he represents himself as "Commissioner;" however, the Committee is under the impression that an individual is appointed as a Foreclosure Commissioner for specific transactions only.

Mr. Daggett replied that he believes that is correct. He noted that he included a certificate in his packet that may be cause of the Committee's concern and he has no objection in dropping the use of the certificate.

Commissioner Imanaka asked Mr. Daggett if he has a license to practice law in Hawaii. Mr. Daggett replied no. Commissioner Imanaka asked Mr. Daggett if he has a license to practice law in any other state. Mr. Daggett replied no.

Commissioner Imanaka asked Mr. Daggett if he is comfortable presenting his materials to his class.

Mr. Daggett replied yes. He added that the course objective is to explain how the foreclosure system works—he is not providing any legal advice.

Commissioner Imanaka asked Mr. Daggett if he counsels students in his class that if they have any legal issues they should seek the advice of a licensed attorney. Mr. Daggett replied yes.

Commissioner Evangelista asked Mr. Daggett, to avoid any type of confusion, if he would be amenable to removing any reference of "Commissioner" in his course materials. Mr. Daggett replied he is ok with removing "Commissioner," but added that he could not imagine anyone being confused—in the past 30 years, no one has confused Liquor Commissioner, Real Estate Commissioner or Foreclosure Commissioner.

Mr. Daggett stated that he will comply with what the Commission deems appropriate.

At this time, Senior Specialist Fujimura stated to Mr. Daggett for clarification that the Commission has a continuing education certificate to issue to students who complete his course for continuing education credit. Mr. Daggett replied that he is aware of this fact and to avoid any type of confusion will not distribute his certificate.

Commissioner Ohama inquired if the course is oriented to being a foreclosure commissioner or oriented to a buyer of foreclosure property. Mr. Daggett replied that this course is to teach the foreclosure process.

Commissioner Ching asked Mr. Daggett why he believes this would be an appropriate continuing education course. Mr. Daggett stated that a lot of real estate people represent clients purchasing foreclosure property and he believes that there will be a lot of foreclosures this year—more now than ever.

Commissioner Ohama asked if Mr. Daggett's intent is to teach the process. Mr. Daggett replied yes, as he believes that a lot of broker's discourage people from purchasing foreclosure property because they will not earn any commission and/or the broker has no knowledge of the foreclosure process. He emphasized that he will not be teaching the law.

Commissioner P. Choi stated that the course materials state that he is a Foreclosure Commissioner, but is concerned that it does not clarify that he is appointed by the court for a specific time or for a specified transaction only—that being a Foreclosure Commissioner is not a continuous event. Mr. Daggett replied he does not know how to explain that fact or if it is even necessary. He added that he is just trying to show credibility and that he knows what he is teaching.

Commissioner Evangelista stated to Mr. Daggett that he could explain in his bio that he was a Foreclosure Commissioner for a specified number of foreclosures.

Upon a motion by Commissioner Ohama, seconded by Commissioner P. Choi, it was voted on and unanimously carried to take this matter under advisement.

Course – "Disclosure," Author/Owner: Hawaii Association of REALTORS®, Provider: Hawaii Association of REALTORS®, Course Category: Risk Management, Course Clock Hours: 6 (requesting one (1) elective credit)

Commissioner P. Choi asked who the intended instructors were for this proposed course. Ms. Marsha Shimizu, Hawaii Association of REALTORS®, replied they are re-doing the entire GRI program and the first set of instructors will be Ken Chong and Art Kawahara, the developers of the course.

Upon a motion by Commissioner P. Choi, seconded by Commissioner Evangelista, it was voted on and unanimously carried to recommend approval of "Disclosure" as a three clock hour continuing education course under the course category Risk Management.

Provider – Continuing-Ed-Online.org (Steve Myers – Administrator)

Senior Specialist Fujimura stated that this proposed provider will be offering only ARELLO certified continuing education courses.

Upon a motion by Commissioner Ching, seconded by Commissioner Rice, it was voted on and unanimously carried to recommend approval of Continuing-Ed-Online.org as a continuing education provider.

Course – "Equity and Debt Considerations for the Real Estate Investor – I," Author/Owner: Lynn W. Carlson, Provider: Lynn W. Carlson, Course Category: Investment, Finance, Course Clock Hours: 3

Course – "Fundamentals of Mortgages and Income Taxes for the Real Estate Agent – I," Author/Owner: Lynn W. Carlson, Provider: Lynn W. Carlson, Course Categories: Investment, Finance, Course Clock Hours: 3

Commissioner Ohama requested to review the course outlines for these proposed courses.

Upon a motion by Commissioner Evangelista, seconded by Commissioner Ohama, it was voted on and unanimously carried to take these two matters under advisement.

2001-2002 Continuing Education Providers and Courses Ratification List

Upon a motion by Commissioner Evangelista, seconded by Commissioner Ching, it was voted on and unanimously carried to recommend approval of the following registrations/certifications:

| <u>Course</u> | <u>Effective Date</u> |
|---|-----------------------|
| "CI 104: Investment Analysis for Commercial Investment Real Estate (Nationally Certified Course/Hawaii CCIM Chapter) | 02/08/02 |
| "Innovative Marketing Techniques for Buyer's Reps" (Nationally Certified Course/Hogan School of Real Estate) | 02/19/02 |
| "Real Estate Finance and Tax Issues" (Nationally Certified Course/Continuing-Ed-Online.org) | 02/25/02 |
| "Investment Property Practice & Management" (Nationally Certified Course/Continuing-Ed-Online.org) | 02/25/02 |
| "Buyer Representation in Real Estate" (Nationally Certified Course/Continuing-Ed-Online.org) | 02/25/02 |
| "Ethics and Real Estate" (Nationally Certified Course/Continuing-Ed-Online.org) | 02/25/02 |

| <u>Course</u> | <u>Effective Date</u> |
|---|-----------------------|
| "Risk Management" (Nationally Certified Course/Continuing-Ed-Online.org) | 02/25/02 |
| "Fair Housing" (Nationally Certified Course/Continuing-Ed-Online.org) | 02/25/02 |

Budget and Finance: Budget and Finance Report – Morgan Stanley Dean Witter Investment Presentation

Commissioner Rice reported that on February 26, 2001, he and EO Taniguchi met with Mr. Carl Choy and his associates at Morgan Stanley Dean Witter to review the current investment portfolios. He stated that there is a concern that monies in the recovery fund is in a liquid asset account. The current goal is to see how much risk the Commission is willing to take.

Mr. Choy stated that in their new proposal they would like to follow the Uniform Prudent Investors Act (UPIA) and come up with written guidelines, investment authority and a reporting process; however, the Commission must first determine how much risk they are willing to accept.

Mr. Choy stated that with a 60% stock/40% bond investment portfolio they would recommend lower volatility type stocks—more stable blue chip names. He added that the 60%/40% has the best risk to reward ratio. Mr. Choy stated that he would like to have the Commission avoid making investment decisions and just set policies and guidelines/procedures.

Commissioner Ohama stated that being that the make-up of the Commission changes, it would be more prudent to consider quarterly reports to the Commission when making their proposal.

Commissioner Rice requested that Mr. Choy come back with a proposal based on the 60%/40% ratio. Commissioner P. Choi requested that Mr. Choy also base a proposal on a 70%/30% ratio for comparison purposes and if the Commission wished to be more conservative.

Mr. Choy stated that he wants to be sure that everyone is comfortable with the investment portfolio.

Commissioner Ching requested that Mr. Choy include an analysis on a 50%/50% ratio.

Mr. Choy will be presenting three proposals comparing 60%/40%, 70%/30%, and 50%/50% ratios at the March 22, 2002 Real Estate Commission monthly meeting.

Chair Aki thanked Mr. Choy and Ms. Lynne Kinney for attending today's meeting.

Commissioner Evangelista requested that Deputy AG Wong review the current contract with Morgan Stanley Dean Witter and advise the Commission if there are any concerns with approving a new contract.

Prelicensure Education: Administrative Issues

Notices sent to all Prelicensure Instructors re upcoming IDW and Instructor's Exam requirement

A copy of the notice to all prelicense instructors regarding the upcoming IDW and instructor's exam requirement were distributed to the Commissioners for their information.

Administration of Examinations:

ASI

Senior Specialist Fujimura reported that the Staff is contemplating conducting a test site monitoring at ASI's Kauai test site on June 15; however, all plans are not yet set.

PSI Report

A report regarding PSI's obtaining new contracts was distributed to the Commissioners for their information.

Educator's Forum:

Hawaii Association of REALTORS® – no discussion presented.

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

Hawaii Association of Real Estate Schools (HARES) – no discussion presented.

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

Program of Work:

Annual Report, Quarterly Bulletin, and School Files – March 2002 Bulletin distributed

Chair Aki reported that the March 2002 issue of the *Bulletin* will be distributed this week.

Interactive Participation with Organizations – REEA Conference June 15 – 19

Upon a motion by Commissioner Ching, seconded by Commissioner Imanaka, it was voted on and unanimously carried to recommend approval for one staff member and one Commissioner to participate at the REEA Conference, to be held on June 15 – 19, 2002, at Albuquerque, New Mexico, subject to REEF budget and DCCA approval. The Chair of the Real Estate Commission and the Supervising Executive Officer shall determine the attendees.

Executive Session:

Upon a motion by Commissioner Ohama, seconded by Commissioner Ching, 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;".

Commissioner Ohama excused; 10:50 a.m.

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

Continuing Education: **Course – “Understanding the Hawaii Foreclosure System,” Author/Owner: Richard Daggett, Provider: Richard Daggett, Course Category: Real Estate Law, Course Clock Hours: 3**

Upon a motion by Commissioner Evangelista, seconded by Commissioner Rice, it was voted on and unanimously carried to recommend approval of "Understanding the Hawaii Foreclosure System" as a three clock hour continuing education course under the course category Other with the following conditions:

- Removal of all references to the title "Commissioner" from forms, business cards, and course materials so as not to confuse the general public.
- Sample form on page 24 of course materials should be labeled "SAMPLE."
- Disclosures regarding experience as a court appointed commissioner may be included in any biographical material.

Course – "Equity and Debt Considerations for the Real Estate Investor – I," Author/Owner: Lynn W. Carlson, Provider: Lynn W. Carlson, Course Category: Investment, Finance, Course Clock Hours: 3

Upon a motion by Commissioner P. Choi, seconded by Commissioner Evangelista, it was voted on and unanimously carried to recommend denial of "Equity and Debt Considerations for the Real Estate Investor – I" as the course materials as presented do not appear to be focused on real estate but on investments. Denial is based on §16-99-101(1), Hawaii Administrative Rules.

Course – "Fundamentals of Mortgages and Income Taxes for the Real Estate Agent – I," Author/Owner: Lynn W. Carlson, Provider: Lynn W. Carlson, Course Categories: Investment, Finance, Course Clock Hours: 3

Upon a motion by Commissioner P. Choi, seconded by Commissioner Evangelista, it was voted on and unanimously carried to recommend denial of "Fundamentals of Mortgages and Income Taxes for the Real Estate Agent – I" as the course materials as presented do not appear to be focused on real estate but on the real estate agent. Denial is based on §16-99-101(1), Hawaii Administrative Rules.

Open Forum: No discussion presented.

Next Meeting: Tuesday, April 9, 2002
10:00 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

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

Respectfully submitted by:

/s/ Diane Choy Fujimura
Diane Choy Fujimura
Senior Real Estate Specialist

April 9, 2002
Date

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

DCF:kt
03/14/02