

**LAWS AND RULES REVIEW COMMITTEE**  
Professional and Vocational Licensing Division  
Department of Commerce and Consumer Affairs  
State of Hawaii

**MINUTES OF MEETING**

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

Date: Wednesday, April 11, 2001

Time: 9:00 a.m.

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

Present: Alfredo Evangelista, Chair  
Iris Okawa, Vice Chair  
Charles Aki, Member  
Michael Ching, Member  
Casey Choi, Member (Late Arrival)  
Patricia Choi, Member  
John Ohama, Member  
Peter Rice, Member

Calvin Kimura, Supervising Executive Officer  
Alan Taniguchi, Executive Officer  
Iris Ikeda Catalani, Senior Real Estate Specialist  
Lorene Arata, Real Estate Specialist  
Cynthia Yee, Senior Condominium Specialist  
Cheryl Leong, Condominium Specialist  
Gina Watumull, Condominium Specialist  
Gordon Arakaki, Condominium Recodification Attorney  
Shari Wong, Deputy Attorney General (Late Arrival)  
Irene Kotaka, Secretary

Jan K. Yamane, Acting Licensing Administrator  
Merrily Leong, Hawaii Association of REALTORS  
Brian Thomas

Excused: Mitchell Imanaka, Member

Call to Order: The Chair called the meeting to order at 9:00 a.m., at which time quorum was established.

Chair's Report: No report was presented.

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

**Additional Distribution**

4. Program of Work, FY01
  - b. Rule Making, Chapter 99, HAR, Real Estate Brokers and Salespersons, and SWAT
  - d. Licensing, Registration and Certification Administration
    - Request for Decision
    - Decisions on Legal and License Names and Advertising
  - j. Legislative and Government Participation
    - 1) Legislative Report

### **Minutes of Previous Meetings**

Upon a motion by Commissioner P. Choi, seconded by Commissioner Aki, it was voted on and unanimously carried to accept the minutes of the March 14, 2001 Laws and Rules Review Committee meeting as circulated.

#### Program of Work, FY01:

#### **Licensing, Registration and Certification Administration**

Request for Decision - The SEO summarized the situation and said that it appeared to be an isolated incident. An applicant received an Equivalency to the Uniform Section of the Examination Certificate (EUSEC), reserved an examination date, passed the real estate salesperson's examination, submitted a salesperson's application and then it was discovered that the applicant did not have the Prelicensing Educational Equivalency Certificate (PEEC) or the Hawaii Prelicensing School Completion Certificate (HPSCC), and the examination score was voided.

Ms. Yamane stated that the facts speak for themselves. The administration is concerned that the testing agency erred in letting the applicant take the examination. Since the testing agency is an agent of the Commission, they are concerned about the actions and the repercussions on the Commission and the Department. She stated that a similar incident had occurred with the Accountancy Board, however, if the Commission were to discuss that situation, she would recommend that this matter be discussed in executive session.

The Deputy Attorney General arrived.

Commissioner Aki had asked if there had been any difference in who was administering the examinations. The SEO stated that whenever there is a problem with the examination or with the testing agency, REB staff requests a report from the testing agency. In this situation, the test center personnel allowed him to take the examination without showing the documentation that he had met the prelicensing education requirements.

Ms. Yamane stated that fraudulent documents were not submitted. The initial preliminary report indicates that the problem appears to be with the instructions that were given to the test center personnel. Instructions given to the test center personnel on Maui were

incomplete. The applicant had obtained a EUSEC and had shown the test center personnel his EUSEC. The applicant was not aware that he needed to show anything else.

Commissioner C. Choi arrived.

The applicant has since applied for and received his PEEC.

Commissioner Ohama asked if there was potential for consumer harm. Ms. Yamane stated that the applicant has the EUSEC and passed the salesperson's examination and there is no consumer harm. The applicant has submitted the application and needs to continue processing. The applicant took and passed the examination in January 2001 and is planning to move to Hawaii in May.

Executive Session:

Upon a motion by Commissioner Ching, seconded by Commissioner Rice, it was voted on and unanimously carried to enter into executive session, pursuant to Section 92-5(a)(), 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 Ohama it was voted on and unanimously carried to move out of executive session.

Program of Work, FY01:

**Licensing, Registration and Certification Administration**

Request for Decision – Upon a motion by Commissioner Okawa, seconded by Commissioner Aki, it was voted on and unanimously carried to recommend rescinding the decision to invalidate the applicant's score report and direct REB staff to continue processing the application for license.

**Rule Making, Chapter 99, HAR, Real Estate Brokers and Salespersons, and SWAT**

The Senior Real Estate Specialist highlighted the changes to the Chapter 99, HAR.

If a female licensee gets married and takes her husband's last name, can she continue to be licensed under her own name? The licensee would have to continue under her legal surname. Her license name must be her legal name. Can the licensee use a tradename if the tradename is registered? The licensee must decide which name they will use and be consistent.

Upon a motion by Commissioner Ohama, seconded by Commissioner Rice, it was voted on and unanimously carried to accept the proposed non-substantive amendments to Chapter 99, HAR.

### **Licensing, Registration and Certification Administration**

A copy of the memo, from the Senior Real Estate Specialist, was distributed to the Commissioners for their information. The superceded information will be attached to the February 25, 2000 memorandum.

### **Neighbor Island Outreach**

The next neighbor island outreach will be held on the island of Kauai, on Friday, May 11, 2001, in Conference Rooms A, B, and C of the State Office Building, located at 3060 Eiwa Street, Lihue, Kauai, 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

Discussion on the August Committee meetings to be held in Waimea, Hawaii, was deferred to the Education Review Committee meeting.

### **Legislative and Government Participation**

A copy of Legislative Report No. 6 was distributed to the Commissioners for their information. The SEO reported on the status of the bills affecting the Commission.

The SEO also informed the Commissioners that the Governor has developed an amended budget execution policy, which requires that out-of-state travel be approved by the Governor, through the Department of Budget and Finance. This will impact the Commission's travel for the REEA Annual Conference, which will be held in June 2001.

The amended policy will also impact the filling of any vacant positions. The Governor and the Department of Budget and Finance must authorize the filling of a vacant position. Governor's approval must be granted for expenditures exceeding \$25,000.

### **Commissioners Education Program**

A copy of the Ethics checklist was distributed to the Commissioners for their information.

### **HUD/ARELLO Fair Housing Agreement**

The Hawaii Association of REALTORS and the Commission are co-sponsoring the "Fair Housing: 2001 and Beyond Seminar" on the following dates and locations:

April 24, 2001	-	Oahu / Ala Moana Hotel
April 25, 2001	-	Maui / Outrigger Wailea
April 26, 2001	-	Hawaii / Hilton Waikoloa

This seminar is being held in conjunction with the terms of the HUD/ARELLO Fair Housing Agreement.

Special Issues:

**Governor Administrative Directive No. 01-01, Disclosure of Public Information**

A copy of the Governor's Administrative Directive No. 01-01 was distributed to the Commissioners for their information.

**American Banker**

A copy of an article entitled, "Realtors Hit Holding Company Proposal," which appeared in the February 14, 2001 issue of American Banker, was distributed to the Commissioners for their information.

A copy of an article entitled, "So Long, Mom-and-Pops; Banks Eye Title Agent Biz," which appeared in the March 2, 2001 issue of American Banker, was distributed to the Commissioners for their information. The article mentioned that banks in several states are eyeing the lucrative business of acting as agents for title insurance companies.

This trend does not benefit the consumer. This was also cited as one of the reasons why the Commission should be allowed to send a representative to the National Association of REALTORS Conference in Washington, D.C.

Commissioner P. Choi stated that she had spoken with the Deputy Director about approving the Commission's participation in the NAR Conferences. Commissioner P. Choi also mentioned that the NAR Directors are required to submit written reports to HAR. She stated that the reports could be given to the Commission so that the Commission could extract the necessary information. The information received from these conferences are very important and it could affect the industry. Commissioner P. Choi asked if she could request the information on behalf of the Commission. She also stated that she will continue to attend the NAR Conferences at her own expense.

Commissioner P. Choi stated that it may be helpful if the Commission could provide more information on what is discussed at the NAR Conferences and the importance of establishing person-to-person contact. She also stated that it may be helpful if reports from previous meetings were attached to the request. She felt that the Commission needed to be more proactive in its participation.

ARELLO, Other Organizations and Jurisdictions:

**ARELLO**

Report – Board of Directors Meetings – The SEO reported that NAR and ARELLO are ready to sign the agreement for the national disciplinary data bank. Twenty Real Estate Commissions have been participating by sending representatives to the NAR meetings and,

as a result, they have been able to address their concerns within the agreement. They will discuss this matter further at the meetings to be held in Washington, D.C. Hawaii will not be able to present any comments.

Western District Meetings - Upon a motion by Commissioner Ching, seconded by Commissioner P. Choi, it was voted on and unanimously carried to approve sending one Commissioner and one staff member to the ARELLO Western District Conference, to be held on July 14 to 16, 2001, in Denver, Colorado, subject to the Governor's fiscal policy and budgetary approval.

### **The Counselors of Real Estate**

Information on the Counselors of Real Estate ("CRE") was distributed to the Commissioners for their information.

Open Forum:

Ms. Leong thanked the Commissioners for their assistance on the disclosure bill.

House Bill No. 462 - She also mentioned that HAR is concerned with the January 1, 2002 start date of the Uniform Arbitration Act. They have asked for an extension. If the bill is passed as is, they will be able to live with it. Their forms are due to amendments in November. It would be necessary for them include information that punitive damages could not be imposed. She stated that HAR would be able to disseminate the information to their members in time, however, they may have problems relaying the information to non-members.

Next Meeting:

**Friday, May 11, 2001**  
**9:30 a.m.**  
Conference Rooms A, B & C  
State Office Building  
3060 Eiwa Street  
Lihue, Kauai

Adjournment:

With no further business to discuss, the Chair adjourned the meeting at 9:55 a.m.

Reviewed and approved by:

/s/ Calvin Kimura  
Calvin Kimura  
Supervising Executive Officer

May 11, 2001  
Date

[ X ] Approved as is.

[ ] Approved with amendments. See minutes of \_\_\_\_\_ meeting.