

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, June 14, 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
Patricia Choi, Member
John Ohama, Member (Late Arrival)

Calvin Kimura, Supervising 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

Merrily Leong, Hawaii Association of REALTORS

Excused: Mitchell Imanaka, Member
Peter Rice, Member
Casey Choi, 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: The Chair wished everyone present a "Happy Flag Day."

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

The Deputy Attorney General will need to leave the meeting at 11:30 a.m.

Commissioners Ohama and Imanaka will be officially reappointed on July 16, 2001. Noe Noe Tom, the Deputy Director, will be sworn in on June 19, 2001, at 2 p.m. in the House Chambers.

There will be a bill signing ceremony for Senate Bill No. 1061, SD1, HD1, CD1, at 10 a.m. today in the Lieutenant Governor's Office. Commissioners Ohama, Okawa, Ching and Aki will be attending the ceremony.

The Deputy Attorney General arrived.

Minutes of Previous Meetings

Upon a motion by Commissioner Aki, seconded by Commissioner Ching, it was voted on and unanimously carried to accept the minutes of the May 11, 2001 Laws and Rules Review Committee meeting as circulated.

Program of Work, FY01:

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

A copy of the memorandum from the Lieutenant Governor, dated May 25, 2001, was distributed to the Commissioners for their information. The Department and the Division are open to any SWAT-related proposals. The deadline to submit proposed legislation for the next legislative session is August 1, 2001.

Commissioner Ohama arrived.

A copy of the article regarding the new real estate rules, which appeared in the May 24, 2001 issue of the Pacific Business News, was distributed to the Commissioners for their information.

Clarification Issues – Staff requested clarification on issues that have risen due to the adopting of the rule revisions to Chapter 99, HAR, on May 21, 2001.

Salesperson Candidate

A candidate for the salesperson's exam is required to have either:

- A school completion certificate, which is "valid for a period of 2 years from the date of issuance" (§16-99-61, HAR)
- An education equivalency certificate, which is "valid for 2 years from the date of issuance" (§16-99-37(c), HAR)
- The candidate may also have an Equivalency to the Uniform Section Certificate, which may also affect the above as it is valid for 2 years from the date of issuance.

- ◆ The date of issuance in the case of the school completion certificate is deemed to be the class completion date.

A salesperson candidate has to pass both sections of the exam "within the 2 year period after the first examination date..." (§16-99-29(a), HAR):

REB staff is currently working with ASI to resolve anticipated tracking problems, which may arise. REB staff will also be instructing ASI on procedures for determining whether or not the candidate is qualified to take the examination.

Commissioner Ching stated that it was the Commission's intent that the expiration date of the educational equivalency and the course completion certificate was two years. The countdown starts with the first examination date but is also subject to the expiration date under §16-99-61, HAR.

The Deputy Attorney General stated that if the course completion certificate or the educational equivalency portion expired, the statute (§467-9.5, HRS) would govern.

At the end of two years, if the candidate has not passed the examination and the educational equivalency or the certificate of completion has expired, the candidate would have to complete the educational requirements again, i.e., school completion certificate or educational equivalency.

- ◆ Upon a motion by Commissioner Aki, seconded by Commissioner Okawa, it was voted on and unanimously carried to approve that a candidate must pass both sections of the exam within two years of the first examination date, subject to the

candidate, on the date of the last examination date, having an unexpired School Completion Certificate or Prelicense Education Equivalency Certificate, and also an unexpired Experience Certificate if a broker candidate.

A candidate has to apply for a license "within 2 years of the last examination date..." (§16-99-29(f), HAR):

- ◆ The last examination date is the date of passage of the last section of the examination.

A salesperson licensee who is issued the license during an "even-numbered year shall be deemed to have completed equivalent to the ten hours of continuing education..." (§16-99-89(c), HAR) and will be renewed on an active status.

- ◆ A salesperson licensee who is a license during an even-numbered year shall be deemed to have completed the equivalent to the ten hours of continuing education and will be renewed on an active status.
- ◆ The CE equivalency rule (§16-99-89(c), HAR) specifically applies only to salespersons. Broker candidates who passed the exam prior to the expiration of their salesperson license and whose required application submission date (within two years of the last examination date) is an odd-numbered year, may submit a license application during the renewal period and request that the salesperson license not be renewed and the broker license be effective January 1 of the odd-numbered year. These candidates would have to complete CE requirements to receive an active real estate broker license.

ASI does not know if they can track any of the above applicable time periods with the available computer specs and the worst scenario is that it will require a complete overhaul, which will delay implementation and may require an amended contract and/or increased exam fees.

- ◆ Real estate broker candidates who passed the exam prior to the expiration of their salesperson's license and whose required application submission date (within two years of the last examination date) is on an even-numbered year, may submit a license application during the renewal period and may request that the salesperson's license not be renewed and the broker license be effective January 1 of the odd-numbered year. However, these candidates must complete the CE requirements in order to receive an active real estate broker's license.

Restoration of license candidates

A forfeited licensee over four years is required to pass the appropriate examination (§467-11(b), HRS). (Note: Passing the prelicensing examination is also an option for restoration applicants who license is forfeited over 1 year and under 4 years.) The candidate is issued a special education equivalency certificate and if a broker candidate, a special experience certificate. By practice, the certificates' expiration date is December 31 on the even-numbered year of the current biennium.

- ◆ Upon a motion by Commissioner Ching, seconded by Commissioner Aki, it was voted on and unanimously carried to approve that the expiration date of the special education equivalency certificate and if a broker, a special experience certificate is December 31 of the even-numbered year of the current biennium based on the renewal fee quotation, which is determined on a biennial basis.

A license candidate has to pass both sections of the exam "within the 2 year period after the first examination date..." (§19-99-29(a), HAR)

Although the intent was for new license candidates, was it also intended for restoration candidates? If so, the aforementioned issues will also apply.

- ◆ Discussion on this issue was deferred to the June 29, 2001 Real Estate Commission meeting.

A license candidate has to apply for license "within 2 years of last examination date..." (§16-99-29(f), HAR)

Although the intent was for new license candidates and the existing practice for restoration candidates is within 90 days of passage of examination, was this rule also intended for restoration candidates? If so, the aforementioned issues will also apply.

- ◆ Discussion on this issue was deferred to the June 29, 2001 Real Estate Commission meeting.

A salespersons licensee who is issued the license during an "even-numbered year shall be deemed to have completed equivalent to the 10 hours of continuing education..." (§16-99-89(c), HAR) and will be renewed on an active status. Although the intent was for new salesperson licensees, was it also intended for restoration salesperson licensees?

- ◆ All restoration candidates whose licenses are restored in an even-numbered year are required to complete the ten hours of continuing education in order to be renewed to an active status.

Neighbor Island Outreach

The next neighbor island outreach is scheduled for Monday, August 6, 2001, at the Outrigger Waikoloa Resort, as follows:

1:00 p.m.	Laws and Rules Review Committee
1:30 p.m.	Education Review Committee
2:30 p.m.	Condominium Review Committee

Commissioners Education Program

A copy of the following materials were distributed to the Commissioners for their information:

1. OIP OpenLine, May 2001
2. Hawaii State Ethics Commission, May 1, 2001

The Commissioners were also reminded that the filing deadline for their disclosure statements to the Ethics Commission is June 30, 2001.

Special Issues:

Disciplinary Action Data (Chair Request)

The LRRC Chair had requested statistics relating to disciplinary proceedings and complaints. The LRRC Chair and the REC Chair will meet to discuss this issue and they will report to the Committee at a later date.

ARELLO, Other Organizations and Jurisdictions:

Washington – Licensing Recognition/Reciprocity Agreements

Information on the State of Washington's licensing recognition/reciprocity agreements was distributed to the Commissioners for their information. The Commission is collecting information on reciprocity for future discussion.

The LRRC Chair and the REC Chair will prepare a draft and set up time lines for the review and consideration of reciprocity by the Committee.

NHIE – National Home Inspector Examination

Information on the National Home Inspector Examination (NHIE) was distributed to the Commissioners for their information.

District of Columbia – Privatization of Licensing (ASI)

Information on the District of Columbia's privatization of their licensing program was distributed to the Commissioners for their information.

National Land Council Fall Meeting

Information on the National Land Council, Inc.'s Fall Meeting, which is scheduled for October 24 to 28, 2001, Rio Rico, Arizona.

Recess: The Chair recessed the meeting at 9:47 a.m.

Reconvene: The Chair reconvened the meeting at 10:31 a.m.

Program of Work, FY01: **Rule Making, Chapter 99, HAR, Real Estate Brokers and Salespersons and SWAT**

The REC Chair displayed an official copy of Act 245, which was signed into law this morning. The REC Chair congratulated the members of the Commission for working on the bill.

Budget and Finance Report – RERF: No report was presented.

Next Meeting: Wednesday, July 11, 2001
9:00 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
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Adjournment: With no further business to discuss, the Chair adjourned the meeting at 10:32 a.m.

Reviewed and approved by:

/s/ Calvin Kimura
Calvin Kimura

July 11, 2001
Date

[X] Approved as is.

[] Approved with amendments. See minutes of _____ meeting.