

LAWS AND RULES REVIEW COMMITTEE
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 Office of the Lieutenant Governor, as required by Section 92-7(b), Hawaii Revised Statutes.

Date: Wednesday, July 10, 2002

Time: 9:00 a.m.

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

Present: Iris Okawa, Chair
Louis Abrams, Vice Chair
Marshall Chinen, Member
Mitchell Imanaka, Member
Kathleen Kagawa, Ph.D., Member
John Ohama, Member
Vern Yamanaka, Member

Calvin Kimura, Supervising Executive Officer
Alan Taniguchi, Executive Officer
Diane Choy Fujimura, Senior Real Estate Specialist
Cynthia Yee, Senior Condominium Specialist
Lorene Arata, Real Estate Specialist
Cheryl Leong, Condominium Specialist
Shari Wong, Deputy Attorney General (Late Arrival)
Irene Kotaka, Secretary

Others: Merrily Leong, Hawaii Association of REALTORS
Iwalani Mountcastle, Vial Fotheringham LLP

Excused: Patricia Choi, Member
Peter Rice, 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: **Real Estate Commission Chair**

Chair Ohama officially welcomed Louis Abrams, Kathleen Kagawa, and Vern Yamanaka to the Commission.

A copy of the memorandum, dated July 1, 2002, regarding the organization of the Real Estate Commission was distributed to the Commissioners for their acceptance and approval.

The Deputy Attorney General arrived.

Upon a motion by Commissioner Imanaka, seconded by Commissioner Abrams, it was voted on and unanimously carried to recommend approval of the REC Chair's memorandum, dated July 1, 2002, regarding the organization of the Real Estate Commission.

Laws and Rules Review Committee Chair

Chair Okawa welcomed Commissioner Abrams as the Vice Chair of the Laws and Rules Review Committee.

SEO's Report:

Additional Distribution

The Program of Work and Budget for FY2003, item 4.u., was distributed to the Commissioners prior to the start of the meeting.

Minutes of Previous Meetings

Upon a motion by Commissioner Abrams, seconded by Commissioner Ohama, it was voted on and unanimously carried to accept the minutes of the June 14, 2002 Laws and Rules Review Committee meeting as circulated.

Revised Real Estate Commission Meeting Schedule

The revised Real Estate Commission meeting schedule for July to December 2002 was distributed to the Commissioners for their information.

The September Committee meetings have been changed to September 4, 2002, in conjunction with the Hawaii Association of REALTORS' ("HAR") Pacific Rim Conference.

The Commissioners were asked to inform REB staff if they wished to participate in the HAR Conference.

Program of Work, FY03:

Legislative and Government Participation

Copies of Act 129, the Real Estate SWAT bill, were distributed to the Commissioners for their information. The Act became effective on July 1, 2002. The only portion of the proposed legislation which did not pass was relating to license recognition. The provided a brief summary of the changes effected by the passage of the Act. Staff is in the process of revising the forms affected by the changes.

Neighbor Island Outreach

A copy of the report on the neighbor island outreach that was held on June 14, 2002, on the island of Kauai, was distributed to the Commissioners for their information.

Commissioners' Education Program

Copies of the May 2002 and the June 2002 issue of OpenLine, were distributed to the Commissioners for their information.

Hawaii Revised Statutes, Sections 92.5 and 92-5

A copy of §§92.5 and 92-5, HRS, were distributed to the Commissioners for their information.

A question was raised on whether or not interaction between Commissioners is allowed to discuss issues.

The Deputy Attorney General informed the Commissioners of the instances in which interaction is allowed. Commissioners can speak with staff members if they have any questions, but they should not speak to other Commissioners outside of the meeting.

If there is a project, such as CE that the Commissioners want to discuss outside of the meeting, the Commission may assign Commission members to this project. They may meet and report back to the Commissioners their findings. If an issue arose out of that, they cannot discuss it with another member of the Commission due to the Sunshine Law.

If there was a project on the neighbor island and one of the Commissioners was aware of the background information, they would be able to provide the Commission with the background information; however, they would not be allowed to discuss the merits of the case.

The Deputy Attorney General explained to the Commissioners that they are wearing three hats as Commissioners:

1. Legislative (when promulgating laws and rules);
2. Executive (when conducting open public meetings pursuant to the Sunshine Law); and
3. Judicial (when adjudicating disciplinary matters).

The Commissioners were also advised that they should not have ex parte communication with applicants. Applicants should be directed to talk with staff instead of speaking with the Commissioners. If the applicants continue to communicate with the Commissioners, it may result in the Commissioner having to disqualify himself from decisionmaking. This may be important in cases where there is a lack of quorum.

Program of Work and Budget, FY2003

A copy of the final Program of Work and Budget for Fiscal Year 2003 was distributed to the Commissioners for their information. The budgetary figures were based on FY2002 figures as staff has not yet received the budget worksheets for FY2003.

ARELLO, Other Organizations and Jurisdictions:

ARELLO Annual Conference

Upon a motion by Commissioner Ohama, seconded by Commissioner Imanaka, it was voted on and unanimously carried to recommend approval to send two Commission members and one staff member or one Commission member and two staff members to the ARELLO Annual Meeting, to be held in Kansas City, Missouri, on October 3 to 7, 2002, subject to the Governor's fiscal policy and budgetary approval.

ARELLO Case Law Summary 2002

The Commissioners were asked to notify REB staff of any recent Hawaii court decisions that might be of interest to government officials relating to real estate transactions, the practice of brokers and salesperson, or the licensing or regulation of occupations and professions.

Open Forum:

Ms. Leong introduced herself to the new Commissioners.

Iwalani Mountcastle introduced herself and stated that she was present at the meeting as an observer.

Budget and Finance Report – RERF:

No report was presented.

Next Meeting:

Wednesday, August 14, 2002
9:00 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Adjournment: With no further business to discuss, the Chair adjourned the meeting at 9:35 a.m.

Reviewed and approved by:

/s/ Alan Taniguchi
(for) Calvin Kimura
Supervising Executive Officer

August 14, 2002
Date

[X] Approved as is.

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