

LAWS AND RULES REVIEW COMMITTEE
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii
www.hawaii.gov/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, May 11, 2005

Time: 9:00 a.m.

Place: Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, Hawaii

Present: Iris Okawa, Chair, Public/Honolulu Commissioner
Louis Abrams, Vice Chair, Broker/Kauai Commissioner
Mitchell Imanaka, Broker/Honolulu Commissioner
Kathleen Kagawa, Broker/Honolulu Commissioner
Michele Sunahara Loudermilk, Public/Honolulu Commissioner
John Ohama, Broker/Honolulu Commissioner

Calvin Kimura, Supervising Executive Officer
Neil Fujitani, Executive Officer
Diane Choy Fujimura, Senior Real Estate Specialist
Cynthia Yee, Senior Condominium Specialist
Ryan Yamashiro, Real Estate Specialist
Cheryl Leong, Condominium Specialist
David Grupen, Condominium Specialist
Irene Kotaka, Secretary

Others: Janice Lind, HARE LLC
Todd Hirai, First National Bank of Arizona
Glenn Taniguchi, Esq.

Absent: Carol Ball, Broker/Maui Commissioner
Trudy Nishihara, Broker/Honolulu Commissioner
Vern Yamanaka, Broker/Hawaii Island Commissioner

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 Chair's report was presented.

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

Additional Distribution

The following material was distributed to the Commissioners prior to the start of the meeting:

4. Program of Work, FY05
 - q. Department and Division Programs
 - v. Subcommittee on Agency
 - 1) Chair's Report
5. ARELLO, Other Organizations and Jurisdictions
 - a. ARELLO
 - b. ARELLO Mid-Year and Annual Meeting

The SEO reported that Tom Gill of the Hawaii Association of REALTORS sent his regrets at being unable to attend this morning's meeting due to staff attending the National Association of REALTORS' meetings in Washington, DC.

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 April 13, 2005 Laws and Rules Review Committee meeting.

Governor's Message No. 774

Chair Okawa stated that incoming Commissioner, Stanley Kuriyama, will be a welcome addition to the Commission. The Commission will miss departing Commissioners Ohama and Imanaka.

Program of Work, FY05:

Neighbor Island Outreach

The next neighbor island outreach is scheduled Tuesday, June 14, 2005, on the island of Hawaii. The meetings will be held in the Conference Rooms of the Natural Energy Laboratory of Hawaii Authority offices, located at 73-4460 Queen Kaahumanu Highway, #101, Kailua-Kona, Hawaii. The Laws and Rules Review Committee meeting will convene at 9:30 a.m., to be followed by the Education Review Committee and the Condominium Review Committee meetings.

Commissioners' Education Program

A copy of the January-March 2005 issue of OpenLine was distributed to the Commissioners for their information.

Division and Department Programs

The Office of the Auditor will be conducting an audit of the Department's trust fund accounts to evaluate whether or not the moneys are being spent according to the intent of the funds, whether or not performance standards are being met, and to provide a fiscal summary for the previous five years.

Subcommittee on Agency

Subcommittee Chair Abrams reported that at the last Committee meeting, the Commission decided that holding a symposium would be the best way to address the consumer relationship issues. He put together his thoughts and recommendations into a memo which was distributed to the Commissioners. He is recommending that various speakers be invited to participate and that the symposium be presented statewide. He is also recommending that the laws and rules be evaluated, that HAR's bill be looked at before the Commission makes a final decision on the consumer relationships issue.

When asked what the target date for the symposium would be, Subcommittee Chair Abrams said that he would like to hold the symposiums in July or August 2005. In order to continue the momentum that was a result of HAR's bill, the Commission would need to decide its plan of action by Fall 2005. If the Commission is having difficulties in coordinating the speakers during the summer, the symposiums could be held in September.

The SEO reported that he had spoken with Mr. Gill on the telephone about the symposiums. Mr. Gill informed him that HAR welcomes this and is willing to offer their assistance. They had also discussed the possibility of offering CE credit for those attending the symposium since it is in the first part of the biennium. The District of Columbia had offered a free class at the beginning of their licensing biennium and had attracted numbers, but it was not what they had expected.

The Commission needs to decide whether or not it will engage a consultant to coordinate the symposium and conduct research or if staff will handle the matter in-house. Public facilities would be utilized to hold the symposium, such as the State Capitol Auditorium. The Commission would also have to make arrangements for each individual speaker. It is possible that the Commission may have to contract with each individual to participate in the symposium. The advantage to having the arrangements done in-house is that the Commission will have more control over the program and what is presented. However, the Commission has not undertaken something like this since the procurement laws were passed and is unsure of the procedures that needs to be followed.

The SEO reported that Mr. Gill had mentioned that the Commission could hear about how consumer relationships are handled among the licensees. The average licensee would benefit from attending and will hear different views of handling consumer relationships.

Since agency is only one part of the licensing law, the issue should be referred to as consumer relationships.

It was suggested that the Commission examine the prelicensing requirements to determine if they need to be increased. It could also examine if having a single licensing law or a higher number of required hours of education have an effect on the licensees.

Commissioner Ohama moved to recommend that the Commission engage a consultant to handle the arrangements for the proposed symposium relating to consumer relationship issues to be held on Oahu and the neighbor islands. Commissioner Kagawa seconded the motion.

Chair Okawa noted that there is a momentum to keep moving forward with this issue as the industry is involved.

The Subcommittee should develop a list of the topics to be covered. Commissioner Ohama noted that there are various models of brokerage companies, such as transaction and minimum service brokerages. Jurisdictions also have to keep in mind the ruling made by the U.S. Department of Justice.

The SEO reported that one of the proposed speakers, Mike Gorham, is well versed in anti-trust issues.

Subcommittee Chair Abrams stated that this issue needs to be discussed with a broader scope of people to obtain more feedback. The proposed speakers are familiar with the issues. Every state has a different way of handling consumer relationships. The Commission needs to look at the whole package, the licensing laws and rules, the requirements, tort laws, etc. HAR is still proposing changes to Chapter 467, HRS, but the Commission has not yet decided which direction it will take.

The motion was voted on and unanimously carried.

Commissioner Ohama also moved to recommend that the Subcommittee on Agency Chair be granted the authority to make decisions on issues relating to the consumer relationship symposium to expedite matters. Commissioner Imanaka seconded the motion. The motion was voted on and unanimously carried.

The following materials were distributed to the Commissioners for their information:

1. "Alaska's Agency Dilemma Defined," Real Estate Educators Association Journal, Volume 17, No. 2
2. "The Colorado Transaction Broker Experience: One Viewpoint," Real Estate Educators Association Journal, Volume 17, No. 2
3. "Real estate commission under pressure," Inman Real Estate News
4. "How to protect your biggest investment," Consumer Reports, May 2005

Subcommittee on Applicants with Criminal and Other Legal Background Issues

No report was presented.

Program of Work and Budget, FY06

The draft Program of Work and Budget for Fiscal Year 2006 was distributed to the Commissioners for their review and comment.

The draft includes the program of work items that were added during this current fiscal year.

ARELLO, Other
Organizations and
Jurisdictions:

ARELLO Mid-Year and Annual Meeting

ARELLO's Annual meeting will be held in Toronto, Canada on September 28, 2005 to October 2, 2005. The Commission has received communication from ARELLO that there are a limited number of hotel rooms available so hotel reservations should be made as soon as possible.

The SEO stated that the existing REC travel policy is that the attendees should be an equal number of Commissioners and staff.

Upon a motion by Commissioner Ohama, seconded by Commissioner Imanaka, it was voted on and unanimously carried to recommend that the Commission send three Commissioners, one of whom is the incoming Chair of the Real Estate Commission, and one staff member to the ARELLO Annual Meeting, to be held on September 28 to October 2, 2005, in Toronto, Canada, subject to the Governor's fiscal policy and budgetary approval.

ARELLO

ARELLO is in the process of developing an Online Resource Library and has requested the assistance of its members in expanding the resources available. A copy of Katie Bodiford's memo, dated April 29, 2005, was distributed to the Commissioners for their information.

The SEO also reported that ARELLO is dependent on membership fees and dues. They are hoping to establish a 501K plan to provide grant services to its members.

Real Estate
Recovery Fund:

No report was presented.

Open Forum:

None.

Next Meeting: **Tuesday, June 14, 2005**
9:30 a.m.
Conference Room
Natural Energy Laboratory of Hawaii Authority
73-4460 Queen Kaahumanu Highway, # 101
Kailua-Kona, Hawaii

Adjournment: With no further business to discuss, the Chair adjourned the meeting at 9:33 a.m.

Reviewed and approved by:

/s/ Calvin Kimura
Calvin Kimura
Supervising Executive Officer

June 14, 2005
Date

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

CK/isk/050518