

LAWS AND RULES REVIEW COMMITTEE
Real Estate Commission
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: June 14, 2005

Time: 9:30 a.m.

Place: Natural Energy Laboratory of Hawaii, Conference Room
73-4460 Queen Kaahumanu, #101
Kailua-Kona, 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
John Ohama, Broker, Honolulu Commissioner
Vern Yamanaka, Broker / Hilo Commissioner
Trudy Nishihara, Broker / Honolulu Commissioner
Michele Sunahara Loudermilk, Public / Honolulu Commissioner

Calvin Kimura, Supervising Executive Officer
Cynthia Yee, Senior Condominium Specialist
Diane Choy Fujimura, Senior Real Estate Specialist
Shari Wong, Deputy Attorney General
Karyn Takahashi, Recording Secretary

Others: Karen Iwamoto, Hawaii Association of REALTORS®
Marsha Shimizu, Hawaii Association of REALTORS®
Elizabeth Hardy
Kalae Wheeler
Lisa Oroc
Glenn Nishihara

Absent: Carol Mae Ball, Broker / Maui Commissioner

Call to Order: Chair Okawa called the meeting to order at 9:35 a.m., at which time quorum was established.

Chair's Report: No Chair's report was presented.

At this time, Commission Chair John Ohama greeted and thanked everyone. This is Commissioner Ohama and Imanaka's last committee meeting and their terms are ending on June 30.

Chair Okawa thanked Commissioner Yamanaka for representing the Big Island well and keeping everyone apprised of issues on the Big Island.

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

SEO Kimura thanked the Natural Energy Laboratory of Hawaii's staff for providing a room for today's meeting.

Additional Distribution

The following materials were distributed prior to the start of the meeting:

- 4. Program of Work, FY05
 - x. Program of Work and Budget, FY06

Minutes of Previous Meeting

Upon a motion by Commissioner Nishihara, seconded by Commissioner Kagawa, it was voted on and unanimously carried to accept the minutes of the May 11, 2005 Laws and Rules Review Committee meeting as circulated.

Program of Work
FY05:

Legislative Acts and Resolutions – House Concurrent Resolution No. 156

A copy of House Concurrent Resolution No. 156, Requesting the Review by the Auditor Concerning the Regulation of Professions and Vocations by the Department of Commerce and Consumer Affairs, was distributed to the Commissioners for their information.

SEO Kimura reported that there will be auditor's reports forthcoming.

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

SEO Kimura reported that we are currently in rule making mode and if anyone has any suggestions and/or comments on the current rules or proposals regarding Chapter 99, HAR, they should submit it in writing or email. Proposals should include justifications. The goal is to get a working draft together by the August meeting.

Neighbor Island Outreach

The next neighbor island outreach is scheduled to be held on Kauai, date to be determined.

Commissioners' Education Program – The High Road, May 2005

A copy of the May 2005 issue of *The High Road* was distributed to the Commissioners for their information.

Division and Department Programs – DCCA News Release – Hawaii Receives International Award for Online Government Services

A copy of a DCCA News Release announcing that Hawaii's online government services for business are some of the best in the nation and around the world and that DCCA's Business Registration Division received an award was distributed to the Commissioners for their information.

Subcommittee on Agency

Subcommittee Chair Abrams reported that the symposium is still being worked on and it seems that only two out of the four speakers may be able to make it to the symposium.

SEO Kimura suggested possibly doing a special issue of the Real Estate Bulletin devoted to consumer relationships. We could get California, Canada, Colorado, HAR, and others to submit articles.

SEO Kimura stated that the RFP is going through the appropriate process.

Subcommittee Chair Abrams stated that depending on the RFP we may be able to keep up with the timeline and still go on as scheduled or we may have to re-think the plans if we are bogged down.

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

1. "NAR directors reject industry standards proposal," Inman Real Estate News, www.inman.com, May 16, 2005
2. "Real Estate Standards Institute Update #3 – 2005
3. "Agency Disclosure: It Ain't Happening1," REEA News, March 2005
4. "Real estate sales commissions may be on a downward trend," Wall Street Journal
5. "Antitrust Enforcement and the Consumer," U.S. Department of Justice
6. Justice Department and FTC Letter to Alabama on Minimum Service Bill
7. "Feds probe real estate agents," CNNMoney, April 22, 2005

Program of Work and Budget, FY06

Upon a motion by Commissioner Abrams, seconded by Commissioner Ohama, it was voted on and unanimously carried to recommend acceptance of the Program of Work and Budget for Fiscal Year 2006.

ARELLO, Other
Organizations and
Jurisdictions:

United States Department of Agriculture – Foreign Investors Who Hold Agricultural Land

The U.S. Department of Agriculture has an annual obligation to inform the Commission of registration requirements for foreign investors. A copy of the fact sheet was distributed to the Commissioners for their information.

Council on Licensure, Enforcement and Regulation (CLEAR) 2005 Annual Conference

Information on the CLEAR 2005 Annual Conference was distributed to the Commissioners for their information. The Conference will be held on September 15 to 17, 2005, at the Pointe South Mountain Resort, in Phoenix, Arizona. The Commission declined participating in this conference. SEO Kimura explained that CLEAR is a national organization that stresses ethics, investigator training, board member training, etc.

ARELLO Boundaries

A copy of the May/June 2005 issue of *Boundaries* was distributed to the Commissioners for their information. The issue contained the following articles of interest:

1. Texas Delays Action on Minimum Service Rule (due to Notice from Department of Justice and the FTC)
2. Wisconsin Takes Different Approach to "Minimum Services" Policy Development
3. Oklahoma AG Addresses "Limited Services"
4. Missouri Considers 'Minimum Services' Bill
5. Justice Department Investigates Kentucky Law

6. Alabama Considers "Minimum Service"

ALQ Real Estate Intelligence Report

The May 2005 issue of the *ALQ Real Estate Intelligence Report* was distributed to the Commissioners for their information. The issue contained the following articles of interest:

1. Realtors, DOJ Locked in Dispute Over Services
2. NAR Delays VOW Policy Until 2006
3. NAR Won't Endorse Higher Standards for Agents

REALTOR Magazine, REALTOR.org and Realty Times

Copies of the following articles were distributed to the Commissioners for their information:

1. REALTOR Magazine, May 12, 2005
 - a. "Caution Urged as HUD Ups RESPA Enforcement"
 - b. "Fed Gov Calls for Action Against Predatory Lending"
 - c. "Data Breaches Raise REALTOR Security Questions"
2. REALTOR.org, May 12, 2005
 - a. "NAR, DOJ to Negotiate Enhanced IDX Policy"
 - b. "Vow Policy: Worth Fighting For – News Analysis"
3. RealtyTimes, May 19, 2005 - "Vitriolic Washington Post Attack Confirms Conspiracy of Disinformation"
4. RealtyTimes, May 18, 2005 – "Realty Executives' Bill Powers Says, "VOWs Aren't About Fees!""

At this time, SEO Kimura reported that there currently is a national trend by federal agencies to look in to real estate. He has been receiving information from other states that presently it is not a good time to make dramatic changes to laws or rules or to the practice of real estate organizations, especially if it borders on antitrust, reducing consumer protection, consumer relationships, etc.

Open Forum:

Karen Iwamoto, HAR, reported that there is an issue of discrimination on the basis of gender identity and there is a need for education as this is a delicate issue. She stated that HAR will be working on a disclosure statement. She stated that this issue was highly lobbied by certain groups at the legislature and she wanted to know if there have been any cases on this issue.

SEO Kimura suggested that Ms. Iwamoto consult with the Civil Rights Commission.

At this time, Ms. Elizabeth Hardy, a licensee, commented on real estate continuing education. She stated that there is a need for higher standards of education—the mandatory education requirements are too low. She stated that she recently completed a few continuing education courses that were excellent, but there were not tests—the classes are too passive.

Chair Okawa responded that the Education Review Committee has oversight of education and she will relay her comments to the Chair and Vice Chair of that committee.

SEO Kimura thanked Ms. Hardy for her excellent comments. Ms. Hardy reiterated that the courses are excellent, but she is a proponent for testing.

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Next Meeting: Wednesday, July 13, 2005
9:00 a.m.
Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, Hawaii

Adjournment: With no further business to discuss, Chair Okawa adjourned the meeting at 10:15 a.m.

Reviewed and approved by:

/s/ Calvin Kimura
Calvin Kimura
Supervising Executive Officer

July 13, 2005
Date

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