

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, February 8, 2006

Time: 9:00 a.m.

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

Present: Louis Abrams, Chair, Broker/Kauai Commissioner
Kathleen Kagawa, Vice Chair, Broker/Honolulu Commissioner
Carol Ball, Broker/Maui Commissioner
Stanley Kuriyama, Broker/Honolulu Commissioner
Michele Sunahara Loudermilk, Public/Honolulu Commissioner
Trudy Nishihara, Broker/Honolulu Commissioner
Iris Okawa, Public/Honolulu Commissioner
Vern Yamanaka, Broker/Hawaii Commissioner

Calvin Kimura, Supervising Executive Officer
Neil Fujitani, Executive Officer
Diane Choy Fujimura, Senior Real Estate Specialist
Ryan Yamashiro, Real Estate Specialist
David Grupen, Condominium Specialist
Cheryl Leong, Condominium Specialist
Shari Wong, Deputy Attorney General
Irene Kotaka, Secretary

Others: Nicki Ann Thompson, Hawaii Association of REALTORS
Alicia Maluafiti, Hawaii Association of REALTORS
Myong Oh, Hawaii Association of REALTORS
Richard Ekimoto
Jeff Grad

Absent: None.

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: **Additions to the Agenda**

Upon a motion by Commissioner Ball, seconded by Commissioner Okawa, it was voted on and unanimously carried to approve the addition to the agenda as follows:

3. SEO's Report
 - c. Revised 2006 Real Estate Commission Meeting Schedule
 - d. Real Estate Commission Roster

Additional Distribution

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

4. Program of Work, FY06
 - f. Legislative and Government Participation Report

Minutes of Previous Meetings

Upon a motion by Commissioner Ball, seconded by Commissioner Okawa, it was voted on and unanimously carried to accept the minutes of the January 11, 2006 Laws and Rules Review Committee meeting.

Program of Work FY06:

Licensing, Registration, and Certification

Excerpts from the latest Geographic Report as of January 11, 2006, were distributed to the Commissioners for their information.

Legislative and Government Participation Report

Legislative Report No. 2 was distributed to the Commissioners for their information. The SEO reported on the bills that were affecting the Commission relating to real estate.

The Commissioners were asked to submit their comments and concerns relating to House Bill No. 3227 to staff.

The SEO reported that we have not received any information on the vacant Commissioner position. Commissioner Kuriyama recommended that the appointee be well-versed in condominium issues as the Commission has a lot of responsibilities and issues relating to condominiums. Commissioner Loudermilk concurred with Commissioner Kuriyama's recommendation.

Neighbor Island Outreach

The next neighbor island outreach is scheduled to be held in Hilo, Hawaii on May 10, 2006. The Laws and Rules Review Committee will convene at 9:30 a.m., to be followed upon adjournment by the Education Review Committee and the Condominium Review Committee meetings. The meetings will be held at the University of Hawaii at Hilo, Campus Center Conference Rooms 306/307, 200 West Kawili Street, Hilo, Hawaii. The Specialists Office for the Day will also be held in conjunction with the meetings.

Ad Hoc Committee on Consumer-Broker Relationships

Chair Abrams reported that the ad hoc committee had its first meeting on January 27, 2006. The committee members were provided with a binder filled with reference materials. The next meeting is scheduled for February 24, 2006.

The committee will be reviewing how other states are handling the issue and will eventually propose recommendations fitting to Hawaii.

Commissioner Nishihara applauded Chair Abrams for conducting a highly effective meeting.

The SEO reported that the committee members had good comments and participation. The meeting is an open meeting and other interested parties are invited to attend. The only board that did not have a representative was the Kona Board of REALTORS.

Commissioner Nishihara reported that the meeting was very effective. The committee members were provided with a history of agency in Hawaii and were also informed that the real estate rules have the force of law. At the next meeting, the committee will be looking at HAR's bill and will see where it can go from there. The participants were surprised at the depth of the subject. The boards had commented that they had received complaints involving dual agency. Their representatives were asked to provide statistics for the next meeting on the number of complaints involving dual agency.

Subcommittee on Agency and Other Related Issues

The information on the following was distributed to the Commissioners for their information and will be provided to the ad hoc committee for their information:

1. California Department of Real Estate
 - a. Agency – DCRE Reference Book
 - b. Excerpts from the Civil Code
 - c. Disclosures – DCRE Reference Book
2. Oregon Real Estate Agency
 - a. Oregon Real Estate News – Journal
 - b. Agency Law
 - c. Agency Rules
 - d. Property Management Agency Rules
 - e. Pamphlet, Agreement, and Guide
3. Nebraska Real Estate Commission – The Pitfalls of Being a Dual Agent and a Principal to a Transaction
4. Agents Rise on Ethics Scale – Realty Times
5. Wisconsin Real Estate Commission – Agency Law Amendments
6. ALQ Real Estate Intelligence Report, Winter 2006

Chair Abrams said that he intends to include all of the laws/information relating to consumer broker relationships for the Western states in the ad hoc committee's binder. The State of California has a 50-page

disclosure form. They also have a lot of educational materials for the consumers and the licensees.

Commissioner Okawa found the dissemination of the information gathered from the State of California to be useful. She also reminded the Commissioners that in addition to examining how any changes would affect the industry, they have to keep in mind any other outside issues or laws that a change may impact.

Chair Abrams agreed that they would also have to look at how any changes would impact fiduciary responsibilities. The State of Oregon uses the term "limited agency" so that the consumers are aware that they would be receiving less service.

Commissioner Nishihara mentioned that the pamphlet that was done by the State of Oregon was a good pamphlet to follow.

Chair Abrams noted that each state has been moving away from having the industry set the parameters. It seems to be the consensus that the forms are mandated by the licensing authority.

The SEO noted that the term "informed consent" is being used more by the different states for written disclosures. The licensees' duty is shifting to educate the consumer.

Chair Abrams stated that if the Commission decides not to mandate the form, the rules will need to specify the standards for disclosure. The Commission may leave it up to the industry to decide on how to proceed.

Subcommittee on Applicants with Criminal/Financial/Legal Background Issues; Criminal History Record Checks

No report was presented.

ARELLO Midyear, District Meeting, Annual Meeting and Reports

No report was presented.

None.

None.

No report was presented.

ARELLO, Other Organizations and Jurisdictions:

Special Issues:

Open Forum:

Budget and Finance Report:

Next Meeting:

Wednesday, March 8, 2006
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Honolulu, Hawaii

Adjournment: With no further business to discuss, the Chair adjourned the meeting at 9:27 a.m.

Reviewed and approved by:

/s/ Calvin Kimura
Calvin Kimura
Supervising Executive Officer

March 8, 2006
Date

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

CK/isk 060208