

EDUCATION 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 Lieutenant Governor's Office as required by Section 92-7(b), Hawaii Revised Statutes.

Date: October 12, 2011

Time: Upon adjournment of the Condominium Review Committee meeting, which is upon adjournment of the Laws and Rules Review Committee meeting, which convened at 9:00 a.m.

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

Present: Scott A. Sherley, Chair / Broker / Hawaii Island Commissioner
Carol Mae Ball, Broker / Maui Commissioner
Frances T. Gendrano, Broker / Honolulu Commissioner
Walter Harvey, Broker / Honolulu Commissioner
Stanley Kuriyama, Broker / Honolulu Commissioner
Nikki T. Senter, Public / Honolulu Commissioner
Michele Sunahara Loudermilk, Public / Honolulu Commissioner
Aileen Wada, Broker / Honolulu Commissioner

Neil K. Fujitani, Supervising Executive Officer
Diane Choy Fujimura, Senior Real Estate Specialist
Cynthia Yee, Senior Condominium Specialist
Amy Endo, Real Estate Specialist
David J. Grupen, Real Estate Specialist
Cheryl Leong, Condominium Specialist
Benedyne Stone, Condominium Specialist
Shari Wong, Deputy Attorney General
Tammy Norton, Recording Secretary
Amy Fujioka, Office Assistant

Others: Trudy Nishihara, Hawaii Association of REALTORS®
Aron Espinueva, Hawaii Association of REALTORS®
Abe Lee, Abe Lee Seminars
Bryan Andaya, Eddie Flores School of Real Estate

Absent: Rowena B. Cobb, Vice Chair / Broker / Kauai Commissioner

Call to Order: The Chair called the meeting to order at 10:19 a.m., at which time quorum was established.

Chair's Report: The Chair stated the Committee may move into Executive Session to consider and evaluate personal information relating to individuals applying for licensure in accordance with section 92-5(a)(1), HRS, and to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities in accordance with section 92-5(a)(4), HRS.

Commissioner Cobb was excused from the meeting. Prior notification of her non-attendance was received.

Real Estate Specialist's Report: Minutes of Previous Meeting

Upon a motion by Commissioner Loudermilk, seconded by Commissioner Ball, it was voted on and unanimously carried to accept the minutes of the September 7, 2011, Education Review Committee meeting.

Continuing Education: Applications

2011-2012 Continuing Education Providers and Courses Ratification List

Upon a motion by Commissioner Loudermilk, seconded by Commissioner Ball, it was voted on and unanimously carried to ratify the following:

<u>Registration/Certification</u>	<u>Effective Date</u>
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Course(s)

"Certified Distressed Property Expert" (ARELLO Course/Charfen Institute dba Distressed Property Institute, LLC)	08/26/11
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"Certified Investor Agent Specialist" (ARELLO Course/Charfen Institute dba Distressed Property Institute, LLC)	08/26/11
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"Global Real Estate: Local Markets: (National Course/Hawaii Association of REALTORS®)	09/02/11
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"NARPM 101: The Basics of Property Management" (National Course/Hawaii Association of REALTORS®)	09/02/11
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Provider – Great Lakes Institute of Real Estate, Administrator – Christopher George

Specialist Fujimura noted that the Provider applicant has also submitted a 15 hour continuing education course and is currently working at incorporating Hawaii related laws and dividing the course into to 5 3-hour courses.

Upon a motion by Commissioner Loudermilk, seconded by Commissioner Harvey, it was voted on and unanimously carried to approve Great Lakes Institute of Real Estate as a continuing education provider.

**Course – "Real Estate Licensee's Guide for New Homebuyers;"
Author/Owner: Abe Lee; Provider: Abe Lee Seminars; Course Categories:
Finance, Other – Assisting New Homebuyers; Clock Hours: 3 (Deferred
from August 10, 2011 ERC)**

Mr. Abe Lee reported that he has incorporated the changes requested by the committee. He noted that the committee may feel that the topic is elementary, but real estate licensees need reminders. Also, much of the content is not what they are taught in prelicensing courses. Some areas of the course may seem basic, but the majority of the course is not. Mr. Lee noted that prior to teaching a class he will update the information with current information and provide updated handouts.

Commissioner Ball noted that the content of the course does not fit the title of the course. The title may be misleading. A title such as "How to prepare to finance a new home" may be more appropriate.

Mr. Lee responded that he has no problem with changing the title of the course.

Upon a motion by Commissioner Ball, seconded by Commissioner Loudermilk it was voted on and unanimously carried to take the matter under advisement.

Course – “Residential Property Management in Hawaii;” Author/Owner: Bryan P. Andaya; Provider: Eddie Flores Real Estate Continuing Education; Course Categories: Property Management, Broker Management; Clock Hours: 3 (Deferred from August 10, 2011 ERC)

Commissioner Senter recused herself from discussion and decision making due to a conflict of interest. Mr. Bryan Andaya was present to answer any questions from the committee.

Specialist Fujimura noted that per the request of the committee, the author split the original course into two courses, one of which is the current course.

The committee had concerns with the course content in item b. vi., HAR 16-99-4: Handling Rental Payments in Licensee's Name.

Mr. Andaya responded that the section relates to trust accounts and seems gray at times. An agent handling his personal rental should have the check received payable to the brokerage and not the licensee. He noted that he also includes an alert statement that the PB should be aware that he may be responsible for the actions of his agents whether or not the PB has actual knowledge. PBs should insist that all real estate transactions be disclosed, including personal transactions.

Specialist Fujimura noted that this issue of a licensee's personal transactions was covered in a previous core course, and created a high level of controversy in the industry.

Upon a motion by Commissioner Ball, seconded by Commissioner Loudermilk, it was voted on and unanimously carried to take the matter under advisement.

Course – “Commercial Property Management;” Author/Owner: Bryan P. Andaya; Provider: Eddie Flores Real Estate Continuing Education; Course Category: Property Management; Clock Hours: 3

Commissioner Senter recused herself from discussion and decision making due to a conflict of interest.

The committee discussed the amount of minutes assigned to each section.

Commissioner Ball questioned if the cases noted were used as examples and illustrations.

Mr. Andaya responded in the affirmative.

Upon a motion by Commissioner Gendrano, seconded by Commissioner Harvey, it was voted on and unanimously carried to take the matter under advisement.

**Course – “Condominium and Planned Communities;”
Author/Owner/Provider: Hawaii Association of REALTORS®; Course
Categories: Real Estate Law, Property Ownership and Development; Clock
Hours: 6**

Upon a motion by Commissioner Gendrano, seconded by Commissioner Harvey, it was voted on and unanimously carried to approve "Condominium and Planned Communities" as a 6-credit hour continuing education course under the course categories of Real Estate Law and Property Ownership and Development.

Course – “Hawaii Legislative Update 2011: 2011 Real Estate Law Update & Federal Law Overview;” Author/Owner: Scott A. Sherley; Provider: ERA School of Real Estate; Course Categories: Real Estate Law, Property Management, Finance; Clock Hours: 3

Chair Sherley appointed Commissioner Ball Chair Pro Tem at this time and recused himself from decision making.

Mr. Sherley informed the committee that the course content includes both state and federal law updates. In addition to the course content submitted for review, the new BPO law (Act 212 SLH 2011) and DCCA information brochure on Act 48 have been added. The course is offered in a live format which includes a power point presentation.

Upon a motion by Commissioner Gendrano, seconded by Commissioner Harvey, it was voted on and unanimously carried to approve "Hawaii Legislative Update 2011: 2011 Real Estate Law Update & Federal Law Overview" as a 3 credit hour continuing education course, under the course categories Real Estate Law, Property Management, and Finance.

Chair Sherley resumed his position as ERC Chair.

Prelicense Education: Evaluation and Education Program

Copies of evaluations of the independent study course from Abe Lee Seminars (8) were distributed to the Commissioners for their information.

Administration of
Examinations:

PSI

Licensing Examination Statistics – September 2011

Examination statistics for September 2011 were distributed to the Commissioners for their information.

School Pass/Fail Rates – September 2011

School pass/fail rate statistics for September 2011 were distributed to the Commissioners for their information.

School Summary by Test Category – September 2011

Copies of the September 2011 test category summary reports, by school, were distributed to the Commissioners for their information.

Educator's Forum: **Hawaii Association of REALTORS®** – No discussion presented.

Public and Private Institutions of Higher Education – No discussion presented.

Program of Work: Annual Report, Quarterly Bulletin, and School Files

Senior Specialist Fujimura reported that the October 2011 issue of *Schools Files* was distributed and a copy has been made available on the Commission's website: www.hawaii.gov/hirec.

Instructor Development Workshop – REEA IDW

Commissioner Ball recused herself from discussion and voting on the issue.

Upon a motion by Commissioner Gendrano, seconded by Commissioner Harvey, it was voted on and unanimously carried to approve the Instructor Development Workshop (IDW) offered at the 2011 Real Estate Educators Association conference, "Adult Learning Styles", as a Hawaii-approved IDW satisfying the IDW requirement for prelicense instructors and continuing education instructors.

It was noted that in the future, requests for substitute IDW's be submitted for approval prior to the offering.

Real Estate Specialists' Office for the Day – Report – West Hawaii Association of REALTORS®

Staff's written report on the Specialist's Office for the Day held at the West Hawaii Association of REALTORS® office on September 7, 2011 was distributed for informational purposes.

Special Issues: Letter Dated 9/22/11 from REALTORS® Association of Maui, Inc. – CE Course on Agency

The REALTORS® Association of Maui, Inc. submitted a letter recommending the establishment of a continuing education course on Agency.

Commissioner Ball noted that the Commission developed its 2007-2008 core course on "Agency Overview" (Part A), its 2005-2006 core course covered "agency and agency disclosure", and its 2004 core course again covered agency in "Agency, Discovery and Disclosure – Practicing Above the Bar", as well as "Agency Solutions Made Easy", offered in 2003.

Recently, the ERC approved "Agency in Hawaii Real Estate", author/owner – James M.K. Stone Jr. Also approved this biennium was "Buyer Representation 2011-2012", offered by REMI School of Real Estate.

The Commission also co-sponsored a real estate seminar instructed by Lynn Madison on "Duties in Conflict", which covered agency issues in depth. This seminar was presented on all islands in May-June 2006.

The Committee recognizes that agency is an important issue.

Upon a motion by Commissioner Ball, seconded by Commissioner Senter it was voted on and unanimously carried to take the recommendation under consideration for future action as necessary.

Budget and Finance Report: Real Estate Education Fund

No report presented

Executive Session: Upon a motion by Commissioner Ball, seconded by Commissioner Gendrano, it was voted on and unanimously carried to enter into executive session pursuant to Section 92-5(a)(1), HRS, "To consider and evaluate personal information, relating to individuals applying for professional or vocational licenses cited in section 26-9 or both;" and pursuant to Section 92-5(a)(4), HRS, "To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities."

Upon a motion by Commissioner Ball, seconded by Commissioner Harvey, it was voted on and unanimously carried to move out of executive session.

Continuing Education: **Course – “Real Estate Licensee’s Guide for New Homebuyers;” Author/Owner: Abe Lee; Provider: Abe Lee Seminars; Course Categories: Finance, Other – Assisting New Homebuyers; Clock Hours: 3 (Deferred from August 10, 2011 ERC)**

Commissioner Harvey moved to approve "Real Estate Licensee's Guide for New Homebuyers" as a 3 credit hour continuing education elective course, under the course categories Finance and Other – Assisting New Homebuyers, subject to the title of the course being amended to more appropriately fit the content of the course. Commissioner Kuriyama seconded the motion. The motion was voted on and unanimously carried.

Course – “Residential Property Management in Hawaii;” Author/Owner: Bryan P. Andaya; Provider: Eddie Flores Real Estate Continuing Education; Course Categories: Property Management, Broker Management; Clock Hours: 3 (Deferred from August 10, 2011 ERC)

Upon a motion by Commissioner Gendrano, seconded by Commissioner Harvey, it was voted on and unanimously carried to approve "Residential Property Management in Hawaii" as a 3 credit hour continuing education course, under the course categories Property Management and Broker Management.

Staff was directed to inform Mr. Andaya that when instructing "Residential Property Management in Hawaii", to be very clear that a licensee's personal transaction, whether it be renting or selling, etc., is handled exactly as a transaction with a client. There are no exceptions to a licensee's personal transactions in the real estate licensing laws and rules. There is no gray area regarding this issue. The Commission's 2009-2010 Core Course, Part A, focused on "Personal Transactions" and included case law (RICO cases) to support the no exception stance. The Commission relies on accurate and correct interpretation and instruction of this important issue.

Course – “Commercial Property Management;” Author/Owner: Bryan P. Andaya; Provider: Eddie Flores Real Estate Continuing Education; Course Category: Property Management; Clock Hours: 3

Upon a motion by Commissioner Loudermilk, seconded by Commissioner Harvey, it was voted on and unanimously carried to approve "Commercial Property Management" as a 3 credit hour continuing education course, under the course categories Property Management and Broker Management.

Next Meeting: Wednesday, November 9, 2011
Upon adjournment of the Condominium Review Committee Meeting, upon
adjournment of the Laws and Rules Review Committee meeting, which convenes at
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 Sherley adjourned the meeting at
11:03 a.m.

Reviewed and approved by:

/s/ Diane Choy Fujimura

Diane Choy Fujimura
Senior Real Estate Specialist

October 21, 2011

Date

[X] Minutes approved as is.
[] Minutes approved with changes, see minutes of _____