

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: Wednesday, February 9, 2011

Time: 9:00 a.m.

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

Present: Frances Gendrano, Chair, Broker/Honolulu Commissioner
Walt Harvey, Vice Chair, Broker/Honolulu Commissioner
Michele Sunahara Loudermilk, Public/Honolulu Commissioner
Stanley Kuriyama, Broker/Honolulu Commissioner
Trudy Nishihara, Broker/Honolulu Commissioner
Scott Sherley, Broker/Hawaii Commissioner
Mark Suiso, Public/Honolulu Commissioner – late arrival
Donna Apisa, Broker / Kauai Commissioner

Neil Fujitani, Supervising Executive Officer
Jon Ellis Pangilinan, Executive Officer
Diane Choy Fujimura, Senior Real Estate Specialist
Amy Endo, Real Estate Specialist
David Grupen, Real Estate Specialist
Cynthia Yee, Senior Condominium Specialist
Cheryl Leong, Condominium Specialist
Benedyne Stone, Condominium Specialist
Shari Wong, Deputy Attorney General
Tammy Norton, Recording Secretary

Others: James Stone, Coldwell Banker
Mark Morita, DCCA Insurance Division
Nadine Cui, Atlas Insurance Agency
Aron Espinueva, Hawaii Association of REALTORS®
Dan Falardeau, Entrust Hawaii
Bill Humphrey, Entrust Hawaii
Charles Pear, McCorriston Miller

Absent: Carol Ball, Broker/Maui Commissioner

Call to Order: The Chair called the meeting to order at 9:02 a.m., at which time quorum was established.

Chair's Report: The Chair announced that the Commission 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/or to consult with the Commission's attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities in accordance with Section 92-5(a)(4), HRS.

Commissioner Ball was excused from today's meeting. Prior notice of her non-attendance was received.

SEO's
Report:

Additional Distribution

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

4. Program of Work
 - d. Rule Making, Ch, 99, HAR, Real Estate Brokers and Salespersons
 - f. Legislative and Government Participation Report

Minutes of Previous Meetings

Upon a motion by Commissioner Nishihara, seconded by Commissioner Apisa, it was voted on and unanimously carried to accept the minutes of the January 12, 2011, Laws and Rules Review Committee meeting.

Program of
Work, FY11:

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

Preliminary rough draft 4 of the proposed rules for inclusion to Chapter 99 were distributed for the Commissioner review and comment. All previous comments provided have been incorporated into draft 4.

Draft 4 attempts to implement the following:

- Required rule changes that resulted from statutory amendments to Chapter 467, HRS, relating to continuing education (CE).
- Proposed changes in sections affecting CE courses
- A number of REC's informal non-binding interpretations.
- Changes in preclicensing education equivalency categories as recommended by the REC in 2008.
- Clarification on the required minimum passing score for incoming instructors.
- Proposed changes in requirements for current instructors.
- Clarification on surety bond requirement to register real estate schools providing independent study preclicensure courses only.
- Clarification on condominium hotel operator (CHO) registration and fidelity bond requirements for individual owners of transient lodging apartments or units.
- Additional sections to clarify condominium hotel operations and who may register as a CHO.
- Grammatical and technical corrections for clarity and brevity and update on language affected by changing technology.

Executive Session:

Upon a motion by Commissioner Nishihara, seconded by Commissioner Sherley, it was voted on and unanimously carried to enter into executive session 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."

Commissioner Suiso arrives at 9:14 a.m.

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

The committee discussed §16-99-101(3) whether the language relating to salesmanship, sales psychology should remain or be stricken from the section. Executive Officer Pangilinan noted that in Draft 4 the language “salesmanship/sales psychology” has been stricken from the rule based on the comments received.

Commissioner Nishihara commented that the language used should be removed and noted that each course should not be blanketed, but rather reviewed and approved based on the courses own merits.

Commissioners agreed to remove the salesmanship/sales psychology language from §16-99-101(3). It was further reported that HAR has also had a lot of discussions relating to this issue.

Executive Officer Pangilinan reported that the Condominium Specialists assisted in drafting the language relating to CHOs. Additional non-substantive stylistic changes to be made to §16-99-147(g).

It was reported that should draft 4 be accepted by the Commission, staff will move forward with the administrative rule making process which initially involves the proposal being sent to the department’s administrative services office for typing and formatting, then to the Director for consultation and approval.

Upon a motion by Commissioner Nishihara, seconded by Commissioner Sherley, it was voted on and unanimously carried to approve the preliminary rough draft 4 of the proposed Chapter 99 rules.

Legislative and Government Participation Report

Legislative Report No. 1 was distributed to the Commissioners for their information. The SEO reported on the bills that were affecting the Commission.

House Bill No. 79, Relating to State Funds – establishes provisions for automatic repeal of certain special and revolving funds beginning June 30, 2012.

House Bill No. 320, Relating to Broker Price Opinions – Permits a licensed real estate broker or salesperson to prepare BPOs for use in real estate transactions where an appraisal is not required by law or otherwise. Staff met with HAR to see if they would consider including this language in 466K rather than 467, but HAR believes it should be placed in Chapter 467.

ARELLO,
Other Organizations
And
Jurisdictions:

ARELLOGram

The following articles were distributed for informational purposes: “ARDA Develops Model Timeshare Resale Act” and “South Dakota High Court Rules That Written Agency Agreements, Disclosures Are Not Assignable.”

California Department of Real Estate

The article entitled "Consumer Alert – Beware of Imposter Landlords" dated November 9, 2010 from the California Department of Real Estate was distributed for informational services.

Professional Licensing Report

The article entitled "Court upholds revocation for failure to renew on time" from the September/October 2010 issue of Professional Licensing Report, was distributed for informational purposes.

Special Issues: No report presented.

Budget and Finance Report: Upon a motion by Commissioner Nishihara, seconded by Commissioner Suiso, it was voted on and unanimously carried to accept the Real Estate Recovery Fund Financial Report for the period ending December 31, 2010.

Next Meeting: Wednesday, March 9, 2011
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, the Chair adjourned the meeting at 9:35 a.m.

Reviewed and approved by:

/s/ Neil K. Fujitani

Neil K. Fujitani
Supervising Executive Officer

February 28, 2011

Date

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