

**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](http://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, 2012

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  
Carol Ball, Broker/Maui Commissioner  
Scott Sherley, Broker/Hawaii Commissioner  
Nikki Senter, Public/Honolulu Commissioner  
Rowena Cobb, Broker /Kauai Commissioner

Neil Fujitani, Supervising Executive Officer  
Miles Ino, 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  
Lesley Matsumoto, Recording Secretary  
Tammy Norton, Secretary

Others: Aron Espinueva, Hawaii Association of REALTORS®  
Bob Kelsey, Waikiki Lanais  
Scott Alan Bly, Dower School of Real Estate  
Kathleen Morgado, Hawaii Life Real Estate Brokers

Absent: Aileen Wada, Broker/Honolulu 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: 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 Wada 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, FY 12
  - f. Legislative and Government Participation Report

Supervising Executive Officer ("SEO") Fujitani announced that the Deputy Director Everett Kaneshige is no longer with the Department, but he will be working with the Department on our Broadband and Telecommunications initiatives, as well as the Mortgage Foreclosure issues. Ms. Jo Ann Uchida from the Regulated Industries Complaints Office ("RICO") is the Acting Deputy Director and Ms. Daria Loy-Goto is the Acting Complaints and Enforcement Officer at RICO.

#### **Minutes of Previous Meetings**

Upon a motion by Commissioner Loudermill, seconded by Commissioner Ball, it was voted on and unanimously carried to accept the minutes of the January 11, 2012, Laws and Rules Review Committee meeting as circulated.

Program of Work:  
FY 12

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

The Commission discussed Hawaii Association of REALTORS® ("HAR") inquiry regarding background checks. Staff crafted language and will forward to HAR for consideration.

#### **Legislative and Government Participation Report**

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

Senate Bill No. 2089 and companion bill House Bill No. 1707, Relating to Transient Accommodations – Requires any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence, including an apartment, unit, or townhouse, to employ a property manager approved by the real estate commission. SEO Fujitani reported that the Senate Bill passed unamended and the House Bill was amended to track the language of the Senate measure.

Senate Bill No. 3002 and companion bill House Bill No. 2768, Relating to Real Estate Brokers and Salesperson – As described by the legislature, this measure supposedly clarifies the language regarding the licensing penalties of real estate brokers and salespersons. Allows the real estate commission to revoke, suspend, or fine any person holding a real estate license, registration, or certificate for negligently or intentionally making misrepresentations or false promises concerning any real estate transaction or negligently or intentionally failing to disclose certain information.

Mr. Espinueva from HAR informed the Commissioners that HAR did not introduce the bills, but are in strong support of the bills.

The Commissioners discussed that the bills do not protect the general public in its real estate transactions. Mr. Espinueva stated that HAR is in strong support of the bills because they protect the licensee.

Deputy Attorney General Wong stated that it is not normal to input “intentionally” or “negligently” in the statute because it will increase the burden on RICO. RICO will have a harder authority to impose a sanction if “intentionally” or “negligently” is input in the bills. Each case that RICO investigates is on a case by case basis and the licensee is provided its due process rights throughout the investigation. RICO subsequently, will generate a Settlement Agreement or proceed to hearing which may result in a Commission’s Final Order.

#### **Division and Department Programs**

The article entitled “Cameras May Open Up the Board Room to Hackers” dated January 22, 2012 from the New York Times was distributed for informational purposes.

ARELLO,  
Other  
Organizations  
And  
Jurisdictions:

#### **Professional Licensing Report**

The article entitled “Discipline overturned where only witness was spouse of licensee’s ex-husband” and “Molestation conviction sufficient to revoke real estate license” from the September/October 2011 issue of Professional Licensing Report, was distributed for informational purposes.

Special  
Issues:

None.

Budget and  
Finance Report:

None presented.

Next  
Meeting:

Wednesday, March 7, 2012  
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 9:34 a.m.

Reviewed and approved by:

/s/ Neil K. Fujitani

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Neil K. Fujitani  
Supervising Executive Officer

February 21, 2012

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Date

Approved as is.  
 Approved with amendments. See minutes of \_\_\_\_\_ meeting.

NF:lm