

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, June 13, 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
Stanley Kuriyama, Broker/Honolulu Commissioner
Michele Sunahara Loudermilk, Public/Honolulu Commissioner
Carol Ball, Broker/Maui Commissioner
Scott Sherley, Broker/Hawaii Commissioner
Nikki Senter, Public/Honolulu Commissioner
Rowena Cobb, Broker/Kauai Commissioner
Aileen Wada, Broker/Honolulu 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
Benedyne Stone, Condominium Specialist
Shari Wong, Deputy Attorney General
Lesley Matsumoto, Recording Secretary

Others: Aron Espinueva, Hawaii Association of REALTORS®
Marsha Shimizu, Hawaii Association of REALTORS®
Mark Howard, Hawaiian Americana Realty
Thomas Douma, Hawaii Inspection Group
David Catanzaro, REMI School

Call to Order: The Chair called the meeting to order at 9:04 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.

SEO's
Report:

Minutes of Previous Meetings

Upon a motion by Commissioner Harvey, seconded by Commissioner Loudermilk, it was voted on and unanimously carried to accept the minutes of the May 9, 2012, Laws and Rules Review Committee meeting as circulated.

Program of Work:

Licensing, Registration, and Certification Administration

Real Estate Specialist Gruppen reported that the Department is still working towards having online license applications.

Advice, Education, and Referral – Informal Non-Binding Opinion, HRS §467-14(14)(A)

Mr. Jay Spadinger is requesting the Commission for an informal non-binding interpretation on HRS, §467-14(14)(A), which states "Revocation, suspension, and fine. In addition to any other actions authorized by law, the commission may revoke any license issued under this chapter, registration, or certificate issued under this chapter, or terminate any registration or certificate issued under this chapter, for any cause authorized by law, including but not limited to the following: (14) Splitting fees with or otherwise compensating others not licensed hereunder for referring business; provided that notwithstanding paragraph (5), a real estate broker may pay a commission to: (A) A licensed real estate broker of another state, territory, or possession of the United States, if that real estate broker does not conduct in this State any of the negotiations for which a commission is paid;...".

Mr. Spadinger questioned whether an out-of-state real estate broker is allowed to negotiate business in this state regardless of whether the broker physically comes into the state or not. He further raised the concern that the out-of-state broker is not knowledgeable in the laws and rules of the state to adequately protect the consumers in Hawaii.

The Commission discussed referral fees and "any of the negotiations" in this state.

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

ARELLO,
Other
Organizations
And
Jurisdictions:

ArellloGram and Other Informational Reports

The following articles was distributed for informational purposes: "Federal Court Declines to Enjoin Nebraska Cease and Desist Order Against California Website Operator", "Update: U.S. Supreme Court Declines to Review Missouri Case Against Unlicensed Rental Locator", and the Chair's and SEO's report from the Association of Real Estate License Law Officials Mid-Year Meeting and District 4 Conference.

Special
Issues:

None.

Budget and
Finance Report:

Real Estate Recovery Fund

Upon a motion by Commissioner Sherley, seconded by Commissioner Harvey, it was voted on and unanimously carried to accept the Real Estate Recovery Fund Financial Report for the period ending March 31, 2012.

Executive Session:

Upon a motion by Commissioner Loudermilk, 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."

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

Program of Work:

Advice, Education, and Referral – Informal Non-Binding Opinion, HRS §467-14(14)(A)

Upon a motion by Commissioner Harvey, seconded by Commissioner Wada, it was voted on and unanimously carried to inform Mr. Spadinger that Hawaii licensed brokers may pay a referral fee to out-of-state brokers, but the out-of-state broker may not conduct in Hawaii any real estate negotiations by any means of communication, as they are not licensed in Hawaii, and are prohibited from engaging in any activity for which a Hawaii real estate license is required.

Next
Meeting:

Wednesday, July 11, 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 10:07 a.m.

Reviewed and approved by:

/s/ Neil Fujitani

Neil Fujitani
Supervising Executive Officer

June 27, 2012

Date

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