

LAWS AND RULES REVIEW COMMITTEE
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

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: Friday, January 12, 2001

Time: 9:00 a.m.

Place: Conference Room
Maui Board of REALTORS
441 Ala Makani Place
Kahului, Maui

Present: Iris Okawa, Vice Chair
Charles Aki, Member
Michael Ching, Member
Casey Choi, Member
Patricia Choi, Member
John Ohama, Member
Peter Rice, Member

Calvin Kimura, Supervising Executive Officer
Alan Taniguchi, Executive Officer
Cynthia Yee, Senior Condominium Specialist
Shari Wong, Deputy Attorney General
Karyn Takahashi, Recording Secretary

Nicki Ann Thompson, Hawaii Association of REALTORS®
Marsha Shimizu, Hawaii Association of REALTORS®
James Chisholm
Eric C. Ong, Napili Realty, Inc.
Foster Hull
Sylvia Cabral

Excused: Alfredo Evangelista, Chair
Mitchell Imanaka, Member

Call to Order: The Vice Chair Okawa called the meeting to order at 9:09 a.m., at which time quorum was established.

Chair's Report: Vice Chair Okawa welcomed everyone to the meeting and thanked the Maui Board of REALTORS® and Commissioner Rice.

Commissioner Ohama welcomed and thanked everyone.

SEO's Report:

Announcements, Introduction, Correspondence, and Additional Distribution

SEO Kimura reminded attendees to sign in.

SEO Kimura introduced Alan Taniguchi, who started with the Real Estate Branch as the Executive Officer on December 18, 2000. He also announced that Iris Ikeda Catalani started with the Real Estate Branch as Senior Real Estate Specialist and Gordon Arakaki was hired as the Recodification Attorney.

Minutes of Previous Meetings

Upon a motion by Commissioner Aki, seconded by Commissioner Rice, it was voted on and unanimously carried to accept the minutes of the December 14, 2000 Laws and Rules Review Committee meeting as circulated.

Announcements, Introduction, Correspondence, and Additional Distribution

The following were distributed as additional distribution:

4. Program of Work, FY01
 - g. Advice, Education, and Referral
6. ARELLO, Other Organizations, and Jurisdictions
 - a. ARELLO Meeting Report

Program of Work, FY01:

Rule Making, Chapter 99, HAR, Real Estate Brokers and Salespersons and SWAT

A copy of the memorandum to the Governor and the proposed SWAT rules was distributed to the Commissioners for their information.

SEO Kimura reported that the SWAT rules are being expedited. A copy of the memorandum to Governor and the proposed rules were e-mailed to the Small Business Regulatory Review Board, Department of Business, Economic Development and Tourism, per their request.

Vice Chair Okawa stated that the SWAT rulemaking project took just under a year and Commissioners Ching, Aki and Ohama, former Commission Chair Imamura, and Staff worked very hard to effect these changes.

Licensing Renewal

SEO Kimura reported that he received the renewal count yesterday. He stated that this was the most successful renewal—very timely, very few deficiencies, lots of cooperation from the Boards and principal brokers, and great workshops.

SEO Kimura reported that as of January 10, 2001 a total of 12,729 renewals and reregistrations have been received. There are 4,636 renewed real estate brokers, with 182 pending; 7,350 renewed real estate salespersons, with 357 pending. Eighty-seven condominium managing agents have reregistered, with 7 pending and 109 condominium hotel operators have reregistered, with 4 pending. He added that the final push through of renewals will be done at the end of the month.

Ms. Thompson, Hawaii Association of REALTORS®, inquired if there is a breakdown of renewal/reregistration statistics broken down by island. SEO Kimura replied that the

geographical report is not currently available; however, if it is received, the information will be forwarded to her.

Advice, Education, and Referral

SEO Kimura reported that an updated Real Estate Branch information sheet is available. This information is also available on the web site: www.state.hi.us/hirec.

Legislative and Government Participation

Administration/REC Bill – A copy of the latest Administration's proposed legislation approved by the Governor was distributed to the Commissioners for their information. The proposed amendments are a part of the SWAT initiative.

Hawaii Association of REALTORS Bill – A copy of HAR's proposed legislation relating to mandatory seller disclosure was distributed to the Commissioners for their information.

SEO Kimura stated that the bill concentrates on out-of-state owners of real property. He added that the requested Chapter 467 changes must be reviewed by the Commission and the review should be completed between now and the end of the month.

Division and Department Programs

SEO Kimura stated that the Department, as well as the Professional and Vocational Licensing Division, has moved into the electronic age and use of the internet to get the latest licensing information. He stated that individuals are now able to access licensing information, as well as complaint history information, from the State of Hawaii web site (www.ehawaii.gov).

SEO Kimura further explained that individuals are able to obtain licensing information such as license status, associating firm, associated licensees, etc. Individuals are also able to obtain complaint history information such as total number of complaints, details of the complaints (disposition and allegation), case number, pending complaints, etc.

Ms. Thompson, Hawaii Association of REALTORS®, inquired if HAR could include a link on their web site. SEO Kimura replied that this is not part of the Real Estate Commission site and she would need to check with the Department and/or Division.

Ms. Thompson also stated that if the word contractor can be substituted for employees as individuals are contractors for a company rather than actual employees.

Lastly, Ms. Thompson inquired if the information on the web site is live or stale-dated. EO Taniguchi stated that the information is updated daily and the information on the web site is one day old.

SEO Kimura added that recommendations/comments for the web site are always appreciated.

Case Law Review

A copy of an article entitled, "Disclosure of SSN "rationally related" to license, court rules," which appeared in the January/February 2000 issue of the Professional Licensing Report was distributed to the Commissioners for their information.

ARELLO, Other
Organizations and
Jurisdictions:

ARELLO Meeting Report

Vice Chair Okawa distributed her report on the ARELLO Annual Conference held in Salt Lake City, Utah, on October 14 – 17, 2000. Vice Chair Okawa stated that ARELLO is comprised of real estate regulators from the various states, provinces of Canada, Australia, Bermuda, Guam, Hong Kong, Philippines, South Africa, and Zimbabwe.

She reported that there were approximately 230 participants at the October annual conference and all states were well represented. She added that the conference was focused towards distance education issues and inter-jurisdictional licensing issues.

Lastly, Vice Chair Okawa stated that it was a very good annual conference.

California Department of Real Estate Record Retention Rules

A copy the California Department of Real Estate's record retention rules was distributed to the Commissioners for their information.

SEO Kimura stated that there is a move towards electronic retention of records and California has started specific rules on optical image storage systems. He added that the Hawaii will need to consider electronic records retention in the near future.

Open Forum:

At this time, Mr. Foster Hull thanked the Committee and SEO Kimura for inviting the public to this meeting. He added that the realtors are busy and that the Commission is doing a great job.

At this time, Mr. James Chisholm stated that a few months ago he read an article in the US News regarding AOAOs getting out of hand and has had a personal experience, and if there was a way the Commission could intervene.

SEO Kimura replied that the condominium law, Section 514A, Hawaii Revised Statutes, emphasizes self-governance and the Commission has authority on about 25% of the sections of the law. He stated that over the years there has been a lot of legislation; however, the overall intent is still self-governance and the use of mediation/arbitration. He added that there is a brochure entitled "Sense of Community" still available.

SEO Kimura stated that the Commission has always recommended mediation and also funds mediation services. He added that mediation is voluntary and there are people who are pushing for mandatory mediation.

Mr. Foster Hull stated that Section 514A seems clear; however, a lot of AOAOs are allowing vacation rentals with AOA monies, so some clarification is needed.

SEO Kimura responded that a recodification effort is underway. He added that the board of directors does have a fiduciary duty and breaches may result in a personal liability for board members.

SEO Kimura stated that one of the purposes of the Condominium Education Fund is to educate the condominium community and there is a speakership program available. He added that the Condominium Review Committee Chair has been talking about a statewide symposium. The Commission also conducts Specialists of the Day on neighbor islands. He also stated that anyone could contact the Real Estate Branch office and inquire on some kind of direct education.

Mr. Foster Hull inquired if an individual that is a member of the board of directors is the board liable as a whole even if everyone is not in agreement. SEO Kimura replied you would have to look issue by issue; however, you should get your vote/objection/justification on record.

Vice Chair Okawa added that a good condominium management agent is important. Mr. Foster Hull stated that CMAs just want to be fiscal managers, favor the board of directors and are not giving the board of directors the right direction.

Next Meeting: Wednesday, February 14, 2001
9:00 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Adjournment: With no further business to discuss, the Chair adjourned the meeting at 10:05 a.m.

Reviewed and approved by:

/s/ Calvin Kimura
Calvin Kimura
Supervising Executive Officer

February 14, 2001
Date

CK:kt 1/17/01

- [x] Approved as is.
[] Approved with amendments. See minutes of _____ meeting.