

**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, May 11, 2001

Time: 9:30 a.m.

Place: Conference Rooms A, B & C  
State Office Building  
3060 Eiwa Street  
Lihue, Kauai

Present: Alfredo Evangelista, Chair  
Iris Okawa, Vice Chair  
Charles Aki, Member  
Michael Ching, Member  
Casey Choi, Member  
Patricia Choi, Member  
Mitchell Imanaka, Member  
John Ohama, Member

Calvin Kimura, Supervising Executive Officer  
Alan Taniguchi, Executive Officer  
Cynthia Yee, Senior Condominium Specialist  
Gordon Arakaki, Condominium Recodification Attorney  
Karyn Takahashi, Recording Secretary  
Glenn Ikemoto, Investigator, DCCA/Regulated Industries Complaints Office – Kauai  
Office  
Dolly Morikawa, Investigator, DCCA/Regulated Industries Complaints Office – Kauai  
Office  
Karen Ono, Executive Vice President, Kauai Board of REALTORS®  
Michael Curtis, President, Kauai Board of REALTORS®  
Jenni Saguid, Kauai Marriott  
Steven Moody  
Rowena Cobb, Cobb Realty  
Sheilah Miyake, Deputy Director, Planning Department, County of Kauai  
Darlene Levy, Condominium Council of Maui

Excused: Peter Rice, Member

Call to Order: The Chair called the meeting to order at 9:31 a.m., at which time quorum was established.

Chair's Report: At this time, the Chair requested that the Commissioners and Staff members introduce themselves.

The Chair thanked Glenn Ikemoto and Dolly Morikawa, Investigators, Regulated Industries Complaints Office – Kauai, for their hospitality.

SEO's Report: **Minutes of Previous Meetings**

Upon a motion by Commissioner Aki, seconded by Commissioner Imanaka, it was voted on and unanimously carried to accept the minutes of the April 11, 2001 meeting as circulated.

Program of Work, FY01:

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

The SEO reported that the final version of Chapter 99, HAR (SWAT rules) has been forwarded to the Governor for approval and signature. Through the Lt. Governor's office, there is a request for a rules signing ceremony.

The SEO stated that once the rules have been approved, staff will work to get the word out to licensees and all interested parties. The EO is working on updating the application forms, instructions, and other forms that are associated with any amendments.

Commissioner Aki inquired on the publicity plans for the new rules. The SEO replied that staff is planning educational programs and will ask the Hawaii Association of REALTORS® and the local boards for their cooperation, publicity through the *Realtor Journal* and the Real Estate Commission's *Bulletin*. Staff is also working on a curriculum for a possible continuing education elective course.

Commissioner Ohama added that the planned elective course will also be cut down and incorporated with the core course that is currently being developed.

The SEO reported that they hope to offer the planned elective course on Kauai first. Staff also hopes to send out a copy of the ramseyer version of the rules to all continuing education providers and prelicensing instructors. The SEO stated that all principal brokers and brokers in charge will be sent out a copy of the new rules. Staff will also be available for speakerships.

**Licensing, Registration, and Certification Administration**

Request for Decision – The EO summarized the situation and stated that the applicant presented an educational equivalency certificate to ASI on February 21, 2001. The applicant should have taken both parts of the exam (without an equivalency to the uniform section certificate) but was allowed to take only the State portion. She subsequently failed that portion.

The applicant returned to retake the exam on April 17<sup>th</sup>. The applicant presented the same educational equivalency certificate but was told she needed two certificates to take the exam. She called our office to ask why she was not being allowed to take the exam. She was told that without an equivalency to the uniform section certificate she had to take both sections of the exam. She then wanted to know why she had to take the uniform portion when she did not have to on February 21st. Staff told the applicant that ASI might have erred the first time. She agreed to take both parts. She passed that State portion but failed the uniform section.

She was issued an equivalency to the uniform section of the examination certificate on April 26, 2001.

The applicant wants the Commission to honor her passing score on the State portion of the exam and accept the after the fact issuance of the equivalency to the uniform section of the examination certificate.

Commissioner Ching inquired if this is similar to the previous situation. The EO replied yes. Commissioner Ching stated that he has concerns that the applicant did not pass the uniform section and an unqualified individual may be approved.

Commissioner Okawa inquired why this type of situation has come up twice. The EO stated that this candidate is from the mainland and the ASI personnel made an error. He added that Staff is planning to merge the educational equivalency and uniform section of the examination equivalency applications in the near future to avoid these types of errors.

The SEO added that when looking at the number of individuals taking the exam, this is a very insignificant number of errors.

Upon a motion by Commissioner Ohama, seconded by Commissioner P. Choi, it was voted on and unanimously carried to recommend acceptance of the candidate's passing score on the State portion of the examination and accept the approved Equivalency to Uniform Section of the Examination certificate and allow the candidate to submit an application for license.

### **Neighbor Island Outreach – Island of Hawaii (August 6, 2001)**

It was reported that the August Committee meetings will be held on Monday, August 6, 2001, in Kona, in conjunction with the Hawaii Association of REALTORS® annual convention. The meetings will be convened at the following times: Laws and Rules Review Committee at 1:00 p.m.; Education Review Committee at 1:30 p.m.; and the Condominium Review Committee at 2:30 p.m.

### **Legislative and Government Participation**

Legislative Report – A copy of Legislative Report #8 was distributed to the Commissioners for their information. The SEO reported that the only unknown is the budget status.

Commissioner Ching inquired on the disclosure bill. The SEO replied that amendments were made as agreed upon with the Hawaii Association of REALTORS® and the bill is currently pending with the Governor for signature.

### Open Forum:

The Chair requested that audience members introduce themselves.

At this time, Mr. Steven Moody introduced himself and stated that he is a broker and owns his own brokerage firm. He requested that the Commission consider adding the term and definition of "transaction broker" in to the real estate laws, as done in other States, as "dual agency" does not fully cover the definition of "transaction broker."

The SEO responded that Hawaii was one of the first State's to have an agency law and assisted the Association of Real Estate License Law Officials ("ARELLO") and other States with the agency issues. He added that currently a number of States are going through their second generation of agency laws. The Commission did revisit the agency law and related issues such as transaction brokerage in 1997 through the Hawaii Real Estate Research and Education Center. At that time, it was decided with the Hawaii Association of REALTORS® that there was no consensus as to whether further research should be conducted for possible amendments to the law. Therefore, the Commission's last position was that unless there is a consensus from the Hawaii Association of REALTORS® and the local boards, they would not consider amendments to the agency law. The SEO suggested to Mr. Moody that he take his suggestion to his local board and have them put the issue on the table for discussion.

At this time, Mr. Michael Curtis, President of the Kauai Board of REALTORS®, thanked the Commission and Staff for its SWAT initiative and amendment of the Chapter 99 rules.

The SEO inquired with the Kauai RICO staff if there was any particular area/type of complaints being received. Investigator Ikemoto responded that complaints are very general; however, they are receiving more time share complaints. The SEO responded that this legislative session produced many bills amending the time share law and in the direction of deregulation.

Next Meeting: Thursday, June 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 9:59 a.m.

Reviewed and approved by:

/s/ Calvin Kimura  
Calvin Kimura  
Supervising Executive Officer

June 14, 2001  
Date

[ X ] Approved as is.

[ ] Approved with amendments. See minutes of \_\_\_\_\_ meeting.