

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: Wednesday, July 11, 2001

Time: 9:00 a.m.

Place: Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Present: Alfredo Evangelista, Chair
Iris Okawa, Vice Chair
Charles Aki, Member
Casey Choi, Member (Late Arrival)
Mitchell Imanaka, Member
Peter Rice, Member

Calvin Kimura, Supervising Executive Officer
Alan Taniguchi, Executive Officer
Lorene Arata, Real Estate Specialist
Cynthia Yee, Senior Condominium Specialist
Cheryl Leong, Condominium Specialist
Gina Watumull, Condominium Specialist
Shari Wong, Deputy Attorney General
Irene Kotaka, Secretary

Merrily Leong, Hawaii Association of REALTORS

Excused: Michael Ching, Member
Patricia Choi, Member
John Ohama, Member

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

Chair's Report: No Chair's report was presented.

SEO's Report: **Announcements, Introduction, Correspondence, and Additional Distribution**

The following materials were distributed prior to the start of the meeting:

3. SEO's Report
 - b. Minutes of Previous Meetings
4. Program of Work, FY02
 - a. Real Estate Recovery Fund

6. ARELLO, Other Organizations and Jurisdictions
 - a. ARELLO
8. Budget and Finance Committee Report – Real Estate Recovery Fund

Minutes of Previous Meetings

Upon a motion by Commissioner Okawa, seconded by Commissioner Aki, it was voted on and unanimously carried to accept the minutes of the June 14, 2001 Laws and Rules Review Committee meeting as circulated.

Program of Work, FY02:

The Commission's finalized Program of Work and Budget for Fiscal Year 2002 was distributed to the Commissioners.

The SEO explained the Governor's Budget Execution policy to the Commissioners.

Real Estate Recovery Fund

Upon a motion by Commissioner Aki, seconded by Commissioner Imanaka, it was voted on and unanimously carried to recommend adoption of the Real Estate Recovery Fund Counsel's recommendation that the Commission only renew judgments and tax intercept payments over \$500 and less than ten years old; and recommend approval of the Real Estate Recovery Fund Counsel's request to refund \$455 to Kerry Barker.

Licensing, Registration, and Certification Administration

The following forms have been amended to reflect the changes in the laws and rules:

1. Change Form – Real Estate
2. Real Estate Branch Office
3. Prelicense Educational Equivalency
4. Uniform Examination Equivalency

The forms are/will be available on the Commission's website.

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

Clarification Issues – Defer discussion and decision making to the July 27, 2001 Real Estate Commission meeting.

Hawaii Association of REALTORS Issues – Ms. Leong explained that according to the SWAT laws, which were just passed, real estate branch offices that are located on the same island do not have to register with the Commission. HAR is looking at how this section applies to advertising. If the real estate branch office is not registered, the principal place of business would have to be listed in the advertisement.

Also, HAR has concerns regarding the requirement that corporate names be listed in the advertising. They are also asking for leeway from RICO and the Commission in trying to comply with these requirements. The SEO reported that RICO has stated that they will be taking a reasonable approach to the enforcement of the statute. If the case should come before RICO, RICO will investigate and will decide whether or not to settle.

The SEO stated that as reported by the Senior Real Estate Specialist at the April 11, 2001 LRRRC meeting, the State business registration laws require that when using the corporate or partnership name, it shall contain the word "corporation", "incorporated", or "limited", "partnership", "general partnership", registered limited liability partnership, limited liability partnership", limited liability company", or an acceptable abbreviation. This was in conflict with the Commission's policy of February 25, 2000, which permitted advertising without the abbreviation. The present rules were drafted so that it would not conflict with the business registration laws. Unless the AGO or Business Registration Division opines otherwise, the present rules will stand.

Ms. Leong asked if the information contained in the Commission's memo, dated April 11, 2001, was distributed to the licensees. She was informed that it has been on the Commission's website for awhile and it will appear in an article in the July 2001 Real Estate Bulletin, which is being mailed to each licensee.

The SEO informed Ms. Leong that the new rules allow a licensee to advertise in their trade name if the trade name is registered with the Business Registration Division and the Commission. Example: ABC Realty Corp. dba ABC Realty. The real estate license can advertise under "ABC Realty" if the trade name is registered with the Business Registration Division and the Commission.

Neighbor Island Outreach – Island of Hawaii

A copy of the flyer was distributed to the Commissioners for their information. The next neighbor island outreach will be held on August 6, 2001, at the Outrigger Waikoloa Beach Hotel, located at 69-275 Waikoloa Beach Drive, Waikoloa, Hawaii. The meetings will be held as follows:

1:00 p.m.	Laws and Rules Review Committee
1:30 p.m.	Education Review Committee
2:30 p.m.	Condominium Review Committee

Commissioners Education Program

A copy of the June 2001 issue of OpenLine was distributed to the Commissioners for their information.

Special Issues:

Request for Interpretation – Goodwin Procter LLP

Discussion on this issue was deferred to later in the meeting.

Request for Interpretation – Bill Ramsey, Inc.

Discussion on this issue was deferred to later in the meeting.

Indiana Real Estate Commission Reciprocal MOU

If the Commission wishes to accept reciprocal agreements with other state licensing agencies, the Commission must draft proposed legislation by the end of August 2001.

REB Staff will work with the Deputy Attorney General in developing language for the proposed bill. The proposed legislation will be presented at the August 6,

2001 Laws and Rules Review Committee meeting. REB staff was asked to compile a list of states that have requested reciprocal agreements within the last five years. REB staff was also asked to compare the differences in the various reciprocal agreements.

ARELLO, Other
Organizations and
Jurisdictions:

ARELLO

A copy of the SEO's report on the ARELLO Midyear Meeting was distributed to the Commissioners for their information.

ARELLO Annual Meeting - Upon a motion b Commissioner Rice, seconded by Commissioner Imanaka, it was voted on and unanimously carried to recommend approval to send two Commissioners and one staff member to the ARELLO Annual Conference, to be held on October 13 to 16, 2001, in Memphis, Tennessee, subject to the Governor's fiscal policy and budgetary approval.

Australia Northern Territory Conference

Information on the Australia Northern Territory Conference was distributed to the Commissioners for their information.

Budget and Finance
Report – RERF:

Upon a motion by Commissioner Okawa, seconded by Commissioner Rice, it was voted on and unanimously carried to recommend acceptance of the Real Estate Recovery Fund Balance Report as of March 31, 2001.

Commissioner C. Choi arrived.

Executive Session:

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

Special Issues:

Request for Interpretation – Goodwin, Procter LLP

Defer discussion and decision making to the August 6, 2001 Laws and Rules Review Committee Meeting.

Request for Interpretation – Bill Ramsey, Inc.

Commissioner Okawa recused herself from the meeting.

REB staff to respond to Mr. Ramsey that the rules require that the deposits be placed in a federally insured bank escrow depository recognized by the State and that deposits to title or trust companies are not allowed.

Commissioner Okawa returned to the meeting.

Next Meeting: Monday, August 6, 2001
1:00 p.m.
Outrigger Waikoloa Beach Hotel
69-275 Waikoloa Beach Drive
Waikoloa, Hawaii

Adjournment: With no further business to discuss, the Chair adjourned the meeting at 9:58 a.m.

Reviewed and approved by:

/s/ Calvin Kimura
Calvin Kimura

August 6, 2001
Date

[X] Approved as is.

[] Approved with amendments. See minutes of _____ meeting.