

**LAWS AND RULES REVIEW COMMITTEE**  
Professional and Vocational Licensing Division  
Department of Commerce and Consumer Affairs  
State of Hawaii  
[www.state.hi.us/hirec](http://www.state.hi.us/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, March 13, 2002

Time: 9:00 a.m.

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

Present: Alfredo Evangelista, Chair  
Charles Aki, Member  
Michael Ching, Member  
Patricia Choi, Member  
Mitchell Imanaka, Member (Late Arrival)  
John Ohama, Member  
Peter Rice, Member

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

Others: Merrily Leong, Hawaii Association of REALTORS

Excused: Iris Okawa, Vice Chair

Absent: Casey Choi, Member

Call to Order: The Chair called the meeting to order at 9:06 a.m., at which time quorum was established.

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

SEO's Report: **Additional Distribution**

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

6. ARELLO, Other Organizations and Jurisdictions  
Status Report on Association Activities in Working Groups
8. Budget and Finance Report – Real Estate Recovery Fund

Pro Forma Reports:

Real Estate Recovery Fund  
Real Estate Education Fund  
Condominium Management Education Fund  
Morgan Stanley Dean Witter Investment Consulting Services

**Announcements**

The SEO reported that there was a 9 a.m. hearing scheduled for today. The EO is on standby to attend the hearing. REB staff is monitoring the progress of the hearing. The REC Chair and the SEO will be leaving the Committee meetings this morning to attend the hearing.

**Minutes of Previous Meetings**

Upon a motion by Commissioner Imanaka, seconded by Commissioner Rice, it was voted on and unanimously carried to accept the minutes of the February 13, 2002 Laws and Rules Review Committee meeting as circulated.

Program of Work, FY02:

**Neighbor Island Outreach**

The next neighbor island outreach is scheduled for the island of Kauai on Friday, June 14, 2002. The meetings will be held in Conference Rooms A, B, and C of the State Office Building, located at 3060 Eiwa Street, Lihue, Kauai. The meetings are scheduled as follows:

9:00 a.m.	Condominium Review Committee
10:00 a.m.	Laws and Rules Review Committee
10:30 a.m.	Education Review Committee

The REC Chair and the SEO will also be attending a meeting at the Kauai Board of REALTORS in the morning.

**Application, Processing and Forms**

Real Estate Specialist Arata informed the Commissioners that the Licensing Branch would be streamlining the recording of home occupations in the computer.

**ARELLO National Disciplinary Action Data Bank**

Information on the upgrade to the ARELLO National Disciplinary Action Data Bank was distributed to the Commissioners for their information. Approximately 70 to 80 percent of the States participate in the Data Bank.

**Case Law Review**

A copy of the case summary for the Dressel v. Ameribank case, Civil No. 222447, Court of Appeals of Michigan, was distributed to the Commissioners for their information.

### **Division and Department Programs**

A copy of the Licensing Branch's online renewal statistics report was distributed to the Commissioners for their information.

Staff is targeting online renewal of real estate licenses for the upcoming renewal period but is not sure if it will be ready in time. The Contractors License Board is not offering online renewals due to dependency issues.

The SEO reported that most States who offer online renewals have a small percentage renewing online during the first year. The number of online renewals increases with time.

### Special Issues:

### **Website and Internet Advertising**

A copy of Commissioner Ching's memorandum, dated March 4, 2002, regarding website and internet advertising was distributed to the Commissioners for discussion.

The subcommittee is proposing the following rules relating to internet advertising:

1. Any advertising appearing on the internet requires the written permission of the seller and listing broker, and no other price except the listing price may be quoted in the ad.
2. All advertising by third-party brokers must contain the name of the listing office, name of the listing sales agent, phone number of the brokerage firm, and a statement identifying the firm's name as the listing broker.
3. If the ad is by a third-party broker, the ad is limited to the following:
  - a) photograph of the property
  - b) street address and town or sub-location of the property
  - c) # of bedrooms/baths contained in the improvement
  - d) size of the lot
  - e) size of the improvements
  - f) leasehold designation, if property is leasehold
  - g) listing price
4. Any remarks or statements describing the property, other than what is listed above, shall not appear with the third-party advertisement of the property.
5. Websites must be updated a minimum of every thirty days. When updating information, third-party brokers must remove advertisements for properties sold or placed under contract/escrow.
6. A general statement regarding agency must be placed in the body of the website. For example: "Some of the listings appearing in this site may be listed by other brokers. If you are interested in those listings, our agency may represent you as the buyer's agent. If the listing you are interested in is our company's

listing, then our agency or the sales agent you speak with will represent the seller, unless prior arrangements were arranged with the seller."

7. A general statement stating that information on third-party listings was secured through the board's multiple listing service and that information, while deemed accurate is not guaranteed.

Commissioner Ching stated that the seven points are areas of concern and they will have to be reviewed and fine tuned by REB staff and the Deputy Attorney General. The amendments proposed above meets the concerns of the licensees and the general public.

Commissioner P. Choi stated that this issue would be discussed at the National Association of REALTORS meetings, which will be held in May.

Commissioner Evangelista asked if the written permission could be an expressed permission or an indirect written permission. Commissioner Ching stated that the Commission could recommend that the data input sheet contain information that would give express rights to advertising with other brokers or it could be included on the listing agreement.

Commissioner Ching recommended distributing information on the seven points to the local boards and the Hawaii Association of REALTORS for their comments and recommendations. The Commission does not want to restrict fair trade but wants to ensure that the consumer is protected.

Commissioner Ching moved to recommend that the subcommittee's Draft 1 be accepted and forwarded to the Hawaii Association of REALTORS, RICO and to other interested parties for their comments and recommendations. The parties will be asked to submit their comments prior to the April 9, 2002 Laws and Rules Review Committee meeting so that this matter may be discussed at this time. Commissioner Aki seconded the motion.

Ms. Leong recommended that the Committee forward Draft 1, with a cover letter to Nicki Ann Thompson and Scott Bradley, asking that they share it with the local boards. Ms. Leong also requested permission to share the draft with her committee members. Her request was granted.

After the comments and recommendations are received and discussed, the Deputy Attorney General will be asked to assist in drafting the proposed language for rulemaking. It was also suggested that the Committee consider incorporating any language, which may arise from the National Association of REALTORS meetings in May. The Commission may be able to finalize the language at their June Committee meeting.

The motion was voted on and unanimously carried.

ARELLO, Other  
Organizations and  
Jurisdictions:

**Status Report on Association Activities in Working Groups**

A copy of ARELLO's status report on the working groups was distributed to the Commissioners for their information.

**BC Council Disciplinary Action Report**

A copy of British Columbia's Disciplinary Action Report, which appeared in the January 2002 issue of the Report from Council was distributed to the Commissioners for their information.

**Oregon Real Estate Agency**

The following documents, received from the Oregon Real Estate Agency, were distributed to the Commissioners for their information:

- ◆ Single Licensing: An Overview of the Revisions to the Oregon Real Estate Licensing Statutes, November 2001
- ◆ "Administrative Actions", December 2001, Oregon Real Estate News – Journal
- ◆ "Licensing Trends and Exam Statistics", December 2001, Oregon Real Estate News – Journal

**Agency Law Quarterly**

The following articles, which appeared in the Agency Law Quarterly Real Estate Intelligence Report, were distributed to the Commissioners for their information:

- ◆ "Banks, Realtors to go head-to-head in Congress", January 2002
- ◆ "AOL, SmartMoney mag, ignite protests from brokers", January 2002
- ◆ "Resort alliance, the next big real estate group?", Winter 2002
- ◆ "eRealty offering marketing options to builders", Winter 2002
- ◆ "California broker finds self-dealing doesn't pay", Winter 2002
- ◆ "New agents: What works, and what doesn't", Winter 2002

Open Forum:

No discussion presented.

Budget and Finance  
Report – RERF:

Commissioner Rice discussed the fund balances of the various funds under the Commission's jurisdiction.

Commissioner Rice and the EO met earlier with Carl Choy of Morgan Stanley Dean Witter to discuss the status of the Commission's investments. Mr. Choy will be attending the Education Review Committee meeting to discuss what their company has to offer.

Commissioner Rice stated that the Commission must determine the level of risk regarding the investments of the funds under their jurisdiction. Depending on the size and type of the investment, the Commission may want to consider retaining an investment manager. Commissioner Rice

requested that the Commission decide the level of risk that it wanted to take.

Next Meeting: Tuesday, April 9, 2002  
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 9:52 a.m.

Reviewed and approved by:

/s/ Calvin Kimura  
Calvin Kimura  
Supervising Executive Officer

April 9, 2002  
Date

[ X ] Approved as is.

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