

LAWS AND RULES REVIEW COMMITTEE
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, September 10, 2003

Time: 9:30 a.m.

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

Present: Iris Okawa, Chair
Louis Abrams, Vice Chair
Marshall Chinen, Member
Mitchell Imanaka, Member
Kathleen Kagawa, Ph.D., Member
Trudy Nishihara, Member
John Ohama, Member
Peter Rice, Member
Vern Yamanaka, Member

Calvin Kimura, Supervising Executive Officer
Cynthia Yee, Senior Condominium Specialist
Diane Choy Fujimura, Senior Real Estate Specialist
Shari Wong, Deputy Attorney General
Karyn Takahashi, Recording Secretary

Others: Jim O'Connor, Kauai Board of REALTORS®
Neil Zaslow, Kauai Board of REALTORS®
Donna Preitauer, Kauai Board of REALTORS®
Larry Hinkel, Realtor Associate
Karen Ono, Kauai Board of REALTORS®
Wayne "Richie" Richardson, RE3, LLC
Sandy Howatt, Kauai Board of REALTORS®
Michael Ching, Former Commissioner
Sheilah Miyake, Deputy Director, County of Kauai Planning Department
Debbie Joy Floria

Call to Order: The Chair called the meeting to order at 9:41 a.m., at which time quorum was established.

Chair's Report: The Chair thanked Commissioner Abrams and former Commissioner Michael Ching for their hospitality.

The Chair acknowledged the presence of Jim O'Connor, President of the Kauai Board of REALTORS®; Karen Ono, Executive Officer of the Kauai

Board of REALTORS®; Richie Richardson, RE3, LLC; Sandy Howatt, Kauai Board of REALTORS®; Neil Zaslow, Kauai Board of REALTORS®; Larry Hinkel, and Donna Preitauer, Kauai Board of REALTORS®. At this time, the Commissioners and Staff members introduced themselves to those present.

SEO's Report:

Announcements, Introduction, Correspondence, and Additional Distributions

Announcements

The SEO thanked Dolly Nakata and Glenn Ikemoto of the Kauai Regulated Industries Complaints Office for their support and liaison activities.

Minutes of Previous Meetings

Upon a motion by Commissioner Abrams, seconded by Commissioner Rice, it was voted on and unanimously carried to accept the minutes of the August 13, 2003 Laws and Rules Review Committee meeting.

Program of Work, FY04:

Commissioners' Education Program

A copy of the August 2003 issue of OpenLine was distributed to the Commissioners for their information.

At this time, Commissioner Abrams reported that a license recognition bill will be submitted at the upcoming legislative session. This would allow the Commission to enter into reciprocal agreements with states that have similar licensing rules.

Commissioner Abrams stated that he has spoken with the Board on what ARELLO wants to do to standardize license laws. He stated that the first mechanism would be to see if the legislature will agree to a license recognition bill and then see if the Commission wants to enter into agreement with other states.

Commissioner Abrams reported that 70% of states have some form of license recognition. He added that one of the biggest benefits would be that we will be able to contact the other states for disciplinary action on licensees who come to Hawaii and practice illegally—we currently have no recourse.

Commissioner Abrams stated that he had a very productive discussion with the Hawaii Association of REALTORS® legislative committee.

Commissioner Yamanaka stated that the concern now is in the referral process and the fact that individuals are not paying the gross excise tax.

It should be if anyone takes a reciprocal agreement the individual needs to have a general excise tax license. Commissioner Abrams replied that one of the suggestions for voluntary compliance would be to have escrow companies take care of the tax payments.

ARELLO, Other
Organizations and
Jurisdictions:

ARELLO

A copy of the August 26, 2003 issue of the ARELLOgram was distributed to the Commissioners for their information.

Special Issues:

Internal Revenue Service TD 9082

A copy of Treasury Decision 9082 was distributed to the Commissioners for their information.

Commissioner Abrams reported that he has forwarded this information to Karen Ono of the Kauai Board of REALTORS® for dissemination to principal brokers and the Hawaii Association of REALTORS® will include this information in their next newsletter.

The SEO added that the Senior Real Estate Specialist will contact Juan Santiago of the Department of the Treasury, Internal Revenue Service, Policies, Procedures and Guidance Branch, for permission to reprint this information in the Real Estate *Bulletin*.

Hawaii Island Board of REALTORS Fee

Information on the Hawaii Island Board of REALTORS®' request for arbitration and ethics complaint process was distributed to the Commissioners. In addition, a letter submitted by J. C. Shannon, dated August 14, 2003, was distributed.

The SEO reported that this information is being provided to the Commissioners for their information about the arbitration and ethics complaint process. He reported that since Mr. Shannon has a pending complaint with the Regulated Industries Complaints Office, and due to legal issues, we will not discuss the complaint as we are not privy to that information.

The SEO noted that if a consumer wants to arbitrate or file an ethics complaint through the Hawaii Island Board of REALTORS® they will be charged a fee. In regards to Mr. Shannon's issue, fees were refunded as no action was taken.

The Chair concluded by stating that the Real Estate Commission has no jurisdiction over this matter; however, this information was provided for the Commissioners' information.

Open Forum: At this time, Mr. Jim O'Connor, President of the Kauai Board of REALTORS[®], thanked the Commission for holding their meetings in Kauai today.

Ms. Karen Ono, Executive Officer of the Kauai Board of REALTORS[®], noted concerns with Hawaii Administrative Rules Section 16-99-11(b) and (c) and the need for clarification and possible separation of the rules. The SEO stated that the rule was intended for active licensees who are clearly advertising on their own, not with a broker—"For Sale By Owner," "For Rent by Owner," etc.

The Chair thanked Ms. Ono for bringing this to the Commission's attention and the Commission will take this matter into advisement.

Budget and Finance Report: No report was presented.

Executive Session: Upon a motion by Commissioner Imanaka, seconded by Commissioner Rice, 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 Ohama, seconded by Commissioner Yamanaka, it was voted on and unanimously carried to move out of executive session.

Next Meeting: Wednesday, October 8, 2003
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 10:16 a.m.

Reviewed and approved by:

/s/ Calvin Kimura
Calvin Kimura
Supervising Executive Officer

October 8, 2003
Date

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