

**LAWS AND RULES REVIEW COMMITTEE**  
Professional and Vocational Licensing Division  
Department of Commerce and Consumer Affairs  
State of Hawaii  
[www.hawaii.gov/hirec](http://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, October 8, 2003

Time: 9:00 a.m.

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

Present: Iris Okawa, Chair  
Louis Abrams, Vice Chair  
Mitchell Imanaka, Member  
John Ohama, Member  
Peter Rice, Member  
  
Calvin Kimura, Supervising Executive Officer  
Alan Taniguchi, Executive Officer  
Cynthia Yee, Senior Condominium Specialist  
Diane Choy Fujimura, Senior Real Estate Specialist  
Lorene Kimura, Real Estate Specialist  
Cheryl Leong, Condominium Specialist  
David Grupen, Condominium Specialist  
Shari Wong, Deputy Attorney General  
Irene Kotaka, Secretary

Others: Nicki Ann Thompson, Hawaii Association of REALTORS®

Excused: Marshall Chinen, Member  
Kathleen Kagawa, Ph.D., Member  
Trudy Nishihara, Member  
Vern Yamanaka, Member

Call to Order: The Chair called the meeting to order at 9:00 a.m., at which time quorum was established.

Chair's Report: No report was presented.

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

**Announcements**

The SEO reminded those present that five Commissioners needed to be present at the meeting in order to maintain a quorum. Six members are needed to consider any additions to the agenda.

Commissioner Nishihara is expected to arrive at 9:40 a.m.  
Commissioners Okawa and Ohama will need to leave before 10:30 a.m.

If the Committees are unable to make a decision prior to losing quorum, the matter will be deferred to the October 31, 2003 Real Estate Commission meeting.

### **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 September 10, 2003 Laws and Rules Review Committee meeting.

### **Additional Distribution**

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

4. Program of Work FY04
  - q. Division and Department Programs – RICO Real Estate Commission Advisory Committee
5. ARELLO, Other Organizations and Jurisdictions
  - a. ARELLO – Working Group Volunteer Form

### Program of Work, FY04:

### **Interactive Participation with Organizations**

The Hawaii Association of REALTORS' Legislative Committee voted unanimously to support the Commission's condominium recodification bill and the license recognition bill.

Ms. Thompson clarified that this action will still need to be approved by the Hawaii Association of REALTORS' Board of Directors and the Executive Committee, who will be meeting on October 24, 2003.

Chair Okawa thanked Ms. Thompson for the close working relationship that the Association has with the Commission.

### **Commissioners' Education Program**

The following were distributed to the Commissioners for their information:

1. OpenLine, September 2003
2. Office of Information Practices Opinion Letter, dated May 2, 2003, regarding the electronic transmission of testimony; identification of testimony received by boards
3. Office of Information Practices Opinion Letter, dated July 14, 2003, regarding executive meetings – attendance by parties other than council and board members
4. Office of Information Practices Opinion Letter, dated July 14, 2003, regarding Land Use Commission Minutes

### **Division and Department Programs**

Upon a motion by Commissioner Abrams, seconded by Commissioner Rice, it was voted on and unanimously carried to recommend approval of the Real Estate Advisory Committee list.

The SEO also reported that the Department is looking at reducing fees. This may impact renewal fees.

Ms. Thompson stated that the Hawaii Association of REALTORS' position is that it is not necessary to reduce fees but it is necessary to use the moneys in a positive way to educate licensees.

The SEO also reported that the Commission has submitted recommendations to increase the budget for the next fiscal year for both the Real Estate Education Fund and the Condominium Management Education Fund. The Commission will also have to implement the real estate broker's curriculum in FY05.

### ARELLO, Other Organizations and Jurisdictions:

#### **ARELLO**

A copy of the September 17, 2003 issue of the ARELLOgram was distributed to the Commissioners for their information.

A copy of the ARELLO Law Committee's Report on Agency and Brokerage Relationships, which was completed in 1999, was distributed to the Commissioners for their information.

### Special Issues:

#### **Condominium Hotel Operator Restrictions**

Cathy Lee Sekiguchi, Esq., was present at the meeting to request an informal interpretation on whether a registered condominium hotel operator ("CHO") may allow a guest to occupy a condominium apartment for thirty days or longer.

Ms. Sekiguchi stated that her client does not advertise occupancy for longer than 30 days. However, they would like the opportunity to accommodate their guests who may request to stay longer than 30 days.

Ms. Sekiguchi was asked if her client has a real estate broker's license. She answered that they do, however, they would like to register as a broker-exempt CHO for business reasons.

Ms. Sekiguchi was asked if this would only involve one property or if there would be other instances in which this situation would arise. Ms. Sekiguchi stated that she has only one client, but she understands from her client that there are other properties that are allowing people to stay longer than 30 days.

Commissioner Rice commented that this is another complexity of licensing. It is typical of CHOs to have guests who want to stay longer than 30 days. Commissioner Rice stated that he agrees with the interpretation of the petitioner.

Ms. Sekiguchi stated that her client represents individual owners. There is no rental agreement. It could be likened to staying at a hotel and changing your reservation at a hotel. Their guests pay for a one-night deposit at the time of booking their reservation, the same as they would at a hotel. If the guest does not show up, they lose their one-night's deposit.

Ms. Sekiguchi stated that she has researched the legislative history but cannot find the reason behind the 30-day requirement. Her client does not enter into a rental agreement with the guest. Her client does not want to play games.

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 Rice, it was voted on and unanimously carried to move out of executive session.

Special Issues:

**Condominium Hotel Operator Restrictions**

Pursuant to the Commission's review of the statutory language, it was determined that the statute is very clear.

Upon a motion by Commissioner Rice, seconded by Commissioner Imanaka, it was voted on and unanimously carried to recommend denial of the request for an informal interpretation of HRS 467-30(g) and that the matter be referred to the Subcommittee on Property Manager Licensing and Related Issues for further examination.

The Commissioners asked Ms. Sekiguchi if she would be willing to participate in the subcommittee and was asked to contact Commissioner Rice for further information.

Open Forum:

None.

Budget and Finance Report:

No report was presented.

Next Meeting:

Wednesday, November 12, 2003  
9:00 a.m.  
Kapuaiwa Room  
HRH Princess Victoria Kamamalu Building  
1010 Richards Street, Second Floor  
Honolulu, Hawaii

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Adjournment: With no further business to discuss, the Chair adjourned the meeting at 9:27 a.m.

Reviewed and approved by:

/s/ Calvin Kimura  
Calvin Kimura  
Supervising Executive Officer

November 12, 2003  
Date

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