

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, August 11, 2004

Time: 9:00 a.m.

Place: Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, Hawaii

Present: Iris Okawa, Chair, Public/Honolulu Commissioner
Louis Abrams, Vice Chair, Broker/Kauai Commissioner
Carol Ball, Broker/Maui Commissioner
Mitchell Imanaka, Broker/Honolulu Commissioner
Kathleen Kagawa, PhD, Broker, Honolulu Commissioner
Michele Sunahara Loudermilk, Public/Honolulu Commissioner
Trudy Nishihara, Broker/Honolulu Commissioner
John Ohama, Broker/Honolulu Commissioner

Calvin Kimura, Supervising Executive Officer
Neil Fujitani, Executive Officer
Cynthia Yee, Senior Condominium Specialist
Diane Choy Fujimura, Senior Real Estate Specialist
Lorene Kimura, Real Estate Specialist
Ryan Yamashiro, Real Estate Specialist
Cheryl Leong, Condominium Specialist
David Grupen, Condominium Specialist
Shari Wong, Deputy Attorney General
Tammy Norton, Secretary

Others: Janice Lind, RE3LLC
Joanna Markle, Hawaii Association of REALTORS
Tom Gill, Coldwell Banker Pacific Properties

Absent: Vern Yamanaka, Broker/Hawaii Island Commissioner

Call to Order: The Chair called the meeting to order at 9:04 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:

4. Program of Work
 - I. Application, Processing and Forms

- p. 1) Hawaii State Ethics Commission – Campaign Restrictions for State Officials & State Employees

Minutes of Previous Meetings

Upon a motion by Commissioner Abrams, seconded by Commissioner Nishihara, it was voted on and unanimously carried to accept the minutes of the July 14, 2004 Laws and Rules Review Committee meeting.

Program of Work, FY05:

Licensing, Registration and Certification Administration

Statistics on the current number of real estate licensees as of July 12, 2004, were distributed to the Commissioners for their information. The report shows an increase in the percentage of active licensees. SEO Kimura reported that the GEO report is now available online at PVL's website of www.hawaii.gov/dcca/pvl.

Commissioner Ball reported on her concerns relating to the increase in home occupation on the island of Maui. She further noted that Maui County does not have a home occupation provision, but an opportunity for conditional use permit or exemption to be issued with specific provisions.

SEO Kimura replied that the Commission no longer requires a zoning form completed by the county, but rather a self certification from the licensee. Each county has its own type of home occupation provision which majority state that the principal broker of a home occupation shall not hire or associate any employees or real estate salespersons except household members of the "home occupation" office. This took affect with the SWAT rules after research showed some abuses from both traditional office addresses and home occupation offices. The Commission's position was to protect the public in real estate transactions and not an enforcement agency for county laws. The Commission is unaware that presently Maui County does not have home occupation rules.

Commissioner Ohama reported that this issue was brought up by the industry in its quest for more self governance.

Chair Okawa noted the accountability issue was on the conduct of the broker. The SWAT emphasis was on the conduct of the license activity. Chair Okawa informed Commissioner Ball that a subcommittee has been formed and will be meeting in the near future to go over possible rule changes. This issue may be reviewed at that time.

Legislative and Government Participation

SEO Kimura reported that the unofficial copy of the amended Chapter 467 relating to real estate salespersons and brokers is now available. A copy of which will be mailed to Principal Brokers and Sole Proprietors in the near future. The only change to Chapter 467 reflected license recognition.

Neighbor Island Outreach

The next neighbor island outreach is scheduled for Wednesday, September 8, 2004, on the island of Kauai. The meetings will be held in Conference Rooms A, B and C of the State Office Building, located at 3060 Eiwa Street, Lihue, Kauai.

Application Processing and Forms

Specialist Kimura provided the Commissioners with history and background information on the rule change which took affect in May 2000 relating to the procedures on change form effective dates. The Commission would now recognize the date the broker provides on the Change Form, regardless of the date the Change Form was received by Licensing Branch.

SEO Kimura reported that problems may occur when change forms are submitted some years later which could affect a claim on the recovery fund, a RICO complaint or broker experience requirements.

Commissioner Imanaka questioned whether the Commission still has the authority to refer change forms submitted over 10 days to RICO.

Specialist Kimura replied in the affirmative acknowledging that that is the current procedure the Commission is following.

Commissioner Kagawa questioned who is responsible for submitting the change form.

SEO Kimura replied that it is the responsibility of both principal brokers and the licensee.

Specialist Kimura clarified that if the licensee is changing broker it is then the responsibility of the new broker and the licensee. If the licensee is going inactive, it is then the responsibility of the releasing broker and the licensee.

The committee acknowledged to continue the May 26, 2000 Commission approved procedure on Change Forms received after ten days from the date of change.

License Renewal

Specialist Kimura reported that as of August 9, 2004, the PVL Search site (www.ehawaii.gov/serv/pvl) has been updated to show if the licensee has met their CE requirements.

Commissioner's Education Program

Hawaii Ethics Commission – Campaign Restrictions for State Officials & State Employees – distribution of Hawaii State Ethics Commission newsletter and Advisory Opinion 88-10 distributed for informational purposes. SEO Kimura reported that Commission members are covered under the ethics law. Per advisory opinion 88-10, no honorarium allowed due to conflict of interest.

Office of Information Practices – OpenLine July 2004 - Chair Okawa reported that the Office of Information Practices held a Sunshine Law Workshop on August 5th which was filled to capacity. The OIP turned individuals away but may look into offering another workshop. Chair Okawa was able to receive distribution material although she was unsuccessful in attending the workshop.

Subcommittee on Referral Fees/License Recognition

A copy of ARELLO's Model License Recognition Section was distributed to the Commissioners for their information.

ARELLO, Other Organizations and Jurisdictions:

Consumer Protection Funds

Information on consumer protection funds for Maryland and selected nearby states was distributed to the Commissioners for their information.

Psychologically Impacted Real Estate

Information on psychologically impacted real estate, prepared by Anne Woody, was distributed to the Commissioners for their information.

Special Issues:

ZipRealty

Information regarding ZipRealty distributed for informational purposes and to show a new sales trend in the industry.

Budget and Finance Report:

Real Estate Recovery Fund

A copy of the Real Estate Recovery Fund's quarterly expenditure plan for FY2005 was distributed to the Commissioners for their information. SEO Kimura further informed the Commissioners that prior to the fiscal year staff is required to determine in which quarter the allocated funds will be spent. Timing of paying bills in the correct quarter is important. It is important to set timetables/deadlines and be consistent in compliance or it may affect future allocations.

Upon a motion by Commissioner Ohama, seconded by Commissioner Kagawa, it was voted on and unanimously carried to recommend acceptance of the Real Estate Recovery Fund Report, dated June 30, 2004.

Open Forum:

Mr. Tom Gill, member of the Agency Task Force, reporting for Ms. Karen Iwamoto of HAR, reported that the draft of their agency bill has been submitted to its committee for review. The Committee will be working on the draft hope to have the legislation submitted for consideration by the 2005 Legislature.

Next Meeting:

Wednesday, September 8, 2004
9:30 a.m.
Conference Rooms A, B & C
State Office Building
3060 Eiwa Street
Lihue, Kauai

Adjournment: With no further business to discuss, the Chair adjourned the meeting at 9:53a.m.

Reviewed and approved by:

/s/ Calvin Kimura
Calvin Kimura
Supervising Executive Officer

September 8, 2004
Date

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

CK/tn
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