

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 8, 2004

Time: 9:30 a.m.

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

Present: Louis Abrams, Vice Chair, Broker/Kauai 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
Lorene Kimura, Real Estate Specialist
Shari Wong, Deputy Attorney General
Tammy Norton, Secretary

Others: Glenn Ikemoto, Regulated Industries Complaints Office
Yoshiko "Dimples" Kano
Glenn Nishihara
Justin Ohama

Absent: Iris Okawa, Chair, Public/Honolulu Commissioner
Carol Ball, Broker/Maui Commissioner
Vern Yamanaka, Broker/Hawaii Island Commissioner

Call to Order: The Chair called the meeting to order at 9:43 a.m., at which time quorum was established.

Chair's Report: Vice Chair Abrams welcomed the Commissioners and staff to the island of Kauai and also thanked those who were present at the meeting.

SEO's Report: SEO acknowledged and thanked Glenn Ikemoto of the Kauai RICO office for reserving the meeting room, providing the parking passes, coffee and pastries for the meeting.

Investigator Ikemoto informed the Commissioners that investigator Dolly Nakata handles the real estate cases on the island of Kauai. He further

thanked the Commission for always making themselves available as resources to the RICO staff.

Minutes of Previous Meetings

Upon a motion by Commissioner Nishihara, seconded by Commissioner Kagawa, it was voted on and unanimously carried to accept the minutes of the August 11, 2004 Laws and Rules Review Committee meeting.

Program of Work, FY05:

Licensing Renewal

Specialist Kimura reported that the Commission has added a new webpage to the Commission's web site with renewal information.

SEO reported that a mailout was done to all principal brokers informing them of who their associating licensees were and whether or not they had met the continuing education requirement as of the print date of the notice. Principal brokers were informed to verify the information provided and make all corrections using the change form that was included with the mailout as soon as possible to prepare for the upcoming renewal. Renewal workshops are also being planned for Honolulu, Kauai, Maui, Hilo and Kona.

Neighbor Island Outreach

The next neighbor island outreach is scheduled for the island of Maui in November 2004. The meetings will be held in conjunction with the license renewal workshop that is being planned for the island of Maui.

The NAR convention is scheduled for approximately the same time as the November Maui committee meetings. Commissioners were requested to check on their availability.

Commissioner's Education Program

A copy of the August 2004 issue of The High Road was distributed to the Commissioners for their information.

Subcommittee on Agency – Alaska Agency

Information received on agency from the Alaska Real Estate Commission was distributed to the Commissioners for their information.

ARELLO, Other Organizations and Jurisdictions:

Other Organizations

Washington – Information received from the State of Washington regarding advertising and the internet, record keeping, broker applicant requirements, and the license application were distributed to the Commissioners.

Commissioner Nishihara requested that staff create a matrix for comparison of each state's CE requirements and also include additional information such as proposed legislation. She noted that it will help the Commission when reviewing its continuing education requirements.

SEO replied that ARELLO has a comparison study and compiles the updated information annually.

National Association of Exclusive Buyer Agents (NAEBA) on NAR – An article entitled, "Group Accuses NAR and State Realtor Associations Falsely Mislead Consumers" was distributed to the Commissioners for their information. The article appeared in the NAEBA magazine.

CAVU eLicense System – Information on CAVU's eLicense program was distributed to the Commissioners for their information. The program is currently being used by Nevada, Louisiana and Illinois.

Commissioner Nishihara questioned the feasibility of the Hawaii Real Estate Commission switching over to the eLicense program.

SEO replied that the entire Professional and Vocational Licensing Division would need to switch over to this system for it to work. Also, real estate licensing is one of the most complicated licensing areas and the largest for Hawaii's Professional & Vocational Licensing Division. If CAVU eLicense System program is a proven program, start up cost would not be as high as if the program was only just being initiated.

The Commission's goal has always been to be able to provide information to licensees via electronic means and to provide as much information as possible electronically as a public service. The Real Estate Branch was the first office in the Department of Commerce and Consumer Affairs to have a website to provide this type of electronic delivery.

California Department of Real Estate – Information regarding license denials, fingerprinting and the Department of Justice and the FBI from the California Department of Real Estate's website was distributed to the Commissioners for their information.

SEO reported that with the Patriot Act, more states are now asking for picture ID verification along with fingerprint verification. Promissor requires for Hawaii Real Estate, Appraiser and Insurance exams, two forms of picture IDs and a photo of the individual is taken at the test site.

Commissioner Ohama suggested that the Commission work with Promissor on requiring fingerprint or background checks on test candidates and share the information with the Commission.

Deputy Attorney General Wong reported that if the state were to require that information, it would then be a part of the state information and become public information.

Commissioner Ohama suggested that staff look into what other states have done with Promissor on fingerprinting verification.

Special Issues:

Chair Ohama's Request: Applicants With Criminal and Other Legal Background Issues

Information on how different states handle applicants with criminal and other legal background issues was distributed for informational purposes. SEO reported that most states handle applicants on a case by case basis. The Commission's decision in 2002 was to review applicants with criminal or other legal background issues on a case by case basis.

A copy of an article on California's guidelines for original applicants with criminal convictions was distributed for informational purposes. REC Chair Ohama requested that a copy be provided to all new commissioners. He further suggested that the Commission keep its policy as broad as possible for Commission discretion as each case is very different.

Upon a motion by Commissioner Kagawa, seconded by Commissioner Ohama, it was voted on and unanimously carried to recommend approval to create a subcommittee to study and create guidelines for review of applicants with prior criminal convictions and/or other legal background issues. The Real Estate Commission to appoint members to the subcommittee at its next full Commission meeting.

Commissioner Ball's Concern: Limited Service Brokerage and Agency

Commissioner Ball passed on an article published by NAR on the growing concern on limited-service brokerage operations which was distributed for informational purposes and questioned whether the Commission wants to address this as a consumer protection issue.

Commissioner Ohama reported that HBR has cases coming up dealing with this issue and that the Commission may not want to get involved in this area at this time. Chair Imanaka also noted that the Commission has ample opportunity to look into this issue at a later time.

Upon a motion by Commissioner Ohama, seconded by Commissioner Kagawa, it was voted on and unanimously carried to recommend tabling the issue of limited service brokerage and agency.

Open Forum:

No discussion presented.

Budget and Finance Report:

Real Estate Recovery Fund

No report presented.

Investment

It was reported that the contract proposal from Bank of Hawaii has been submitted to the Deputy Attorney General for her review. Upon receiving the Deputy Attorney General's approval, signatures will be obtained to execute the agreement and funds will be transferred from Morgan Stanley to Bank of Hawaii.

Next Meeting:

Wednesday, October 13, 2004
9:00 a.m.
Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, Hawaii

Adjournment:

With no further business to discuss, the Vice Chair adjourned the meeting at 10:53 a.m.

Reviewed and approved by:

/s/ Calvin Kimura
Calvin Kimura
Supervising Executive Officer

October 13, 2004
Date

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