

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, April 12, 2006

Time: 9:00 a.m.

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

Present: Louis Abrams, Chair, Broker/Kauai Commissioner
Kathleen Kagawa, Vice Chair, Broker/Honolulu Commissioner
Carol Ball, Broker/Maui Commissioner
Stanley Kuriyama, Broker/Honolulu Commissioner
Michele Sunahara Loudermilk, Public/Honolulu Commissioner
Trudy Nishihara, Broker/Honolulu Commissioner
Iris Okawa, Public/Honolulu Commissioner

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

Others: Myoung Oh, Hawaii Association of REALTORS
Alicia Maluafiti, Hawaii Association of REALTORS

Absent: Vern Yamanaka, Broker/Hawaii Commissioner

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

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

SEO's Report: **Minutes of Previous Meetings**

Upon a motion by Commissioner Kagawa, seconded by Commissioner Loudermilk, it was voted on and unanimously carried to accept the minutes of the March 8, 2006 Laws and Rules Review Committee meeting.

Program of Work
FY06:

Neighbor Island Outreach

The next neighbor island outreach is scheduled to be held in Hilo, Hawaii on May 10, 2006. The Laws and Rules Review Committee will convene at 9:30 a.m., to be followed upon adjournment by the Education Review Committee and the Condominium Review Committee meetings. The meetings will be held at the University of Hawaii at Hilo, Campus Center Conference Rooms 306/307, 200 West Kawili Street, Hilo, Hawaii. The Specialists Office for the Day will also be held in conjunction with the meetings.

A presentation on the recodification of Chapter 514A, HRS, will also be presented in the afternoon, starting at 1:30 p.m.

Commissioners' Education Program

Copies of the following were distributed to the Commissioners for their information:

1. OpenLine, January to March 2006
2. The High Road, March 2006
3. Simple Rules of Procedure for Occupational Licensing Agencies, by Thomas Miller, ARELLO

Subcommittee on Agency and other Related Issues
Ad Hoc Committee on Consumer-Broker Relationships

The following materials were distributed to the Commissioners for their information:

1. "Idaho Withdraws Minimum Services' Proposal," ARELLOgram, March 9, 2006
2. "D.C. Amends Agency Forms," ARELLOgram, March 23, 2006
3. "Wisc. to Allow 'Designated Agency' With New Law," ARELLOgram, March 23, 2006
4. Report from the Real Estate Council of British Columbia, March 2006; and
5. "Antitrust: Is it the Real Issue?," Real Estate Education Association Journal, Vol. 18, No. 2

At the recent ARELLO Midyear Meeting, there was discussion on how agency was handled by the various jurisdictions. They also discussed how information was disseminated to the licensees.

Chair Abrams will follow up with the various jurisdictions on how they advertise information to their licensees and the public.

Chair Abrams reported that British Columbia intends to provide a handbook on agency which would address standards of practice and the use of agency. The trend for the Canadian Task Force is for all provinces to educate their licensees. Chair Abrams reported that he will be monitoring the progress of the Canadian Task Force. The next ad hoc committee meeting is scheduled for June 23, 2006.

**Subcommittee on Applicants with Criminal/Financial/Legal
Background Issues; Criminal History Record Checks**

The following information was distributed to the Commissioners for their information:

1. Hawaii Criminal History Record Checks; and
2. "Comments from the Chair," Kentucky Real Estate Commission News, Winter 2006

Most states have a criminal data bank and have an agreement with the FBI to do a background check, for a fee. The Hawaii Criminal Justice Data Center ("HCJDC") has a site that allows the public to search for criminal history records. There is no charge to browse. New users are charged \$1 to set up an account. The \$1 set up fee is waived for State agencies. This will allow you to perform a search. It will notify you if a record is found and you have the option to purchase the record for \$13. The records go back seven to ten years.

Promissor does background finger printing checks for some of its clients. They are able to get the results back within four hours. The State of Florida has 400,000 licensees. They had to make arrangements to have the machines located at the test center.

Condominium Specialist Gruppen reported that administration does not have a problem if the Commission wished to subscribe to HCJDC's records search. If a record is found, the cost involved in obtaining the record would have to be borne by the trust funds. The additional costs may also be passed on to the applicant.

A great number of Hawaii licensees are licensed in another state or may have relocated from another state in which they may have been convicted of a crime.

The Commission would also like to move towards electronic databases which would hold all of the information from the beginning of the process until the applicant becomes licensed.

The Commission could also include condominium information also, such as individuals hired by CMAs. The Commission will continue to look at this issue.

The Deputy Attorney General informed the Commissioners that if they decided to follow what Kentucky was doing, they would need to promulgate rules to that effect.

Commissioner Ball stated that she would like applicants to know ahead of taking the prelicensing class that they can request a preliminary approval from the Commission if they have a prior conviction. The schools do not appear to be notifying the applicants of their right to request a preliminary decision before the applicant signs up for the class.

Commissioner Kuriyama said that there were two issues up for discussion. The first would be if prior notice was given to the applicant of

their option to request preliminary approval. The second issue is whether or not the Commission would allow anyone that is on probation/parole to take the exam.

The Commission would like to have the finger printing and background check completed prior to applying for a license or even before signing up for the preclicensing course.

It is the Commission's policy that the schools are to give notice up front to the candidates for licensure prior to signing an agreement to take the preclicensing classes.

There were a lot of people who were incarcerated in Nevada who were applying for a license. Nevada passed law stating that they would not issue a license if the person were incarcerated.

It was suggested that the schools be required to hand out a memo, informing them of the right to request a preliminary decision, to every applicant prior to accepting any fees. If the applicant is convicted of a crime, is on parole, or probation, they may want to consider appearing before the Commission to request a preliminary decision prior to signing up for the preclicensing course.

Program of Work

The SEO reported that the Committee will be working on the Program of Work for FY07 and requests that all interested parties, including Commissioners, submit comments and recommendations on existing programs and proposal for new programs immediately. The Program of Work and Budget for FY06 is available for viewing online at www.hawaii.gov/hirec. The goal is to finalize the FY07 Program of Work by the May 26, 2006 REC meeting or no later than the June 14, 2006 meetings for submission to the Licensing Administrator and the Director before July 1, 2006.

ARELLO, Other Organizations and Jurisdictions:

ARELLO Midyear, District Meeting, Annual Meeting and Reports

No report was presented.

Special Issues:

None.

Open Forum:

None.

Budget and Finance Report:

None.

Next Meeting:

Wednesday, May, 2006
Campus Center Conference Rooms 306/307
University of Hawaii at Hilo
200 West Kawili Street
Hilo, Hawaii

SEO's Report: The SEO reported that the Commission will be short-staffed. Specialist Kimura will be returning from leave on May 16, 2006. The Branch Secretary will be on temporary assignment as of April 28, 2006.

Adjournment: With no further business to discuss, the Chair adjourned the meeting at 9:50 a.m.

Reviewed and approved by:

/s/ Calvin Kimura
Calvin Kimura
Supervising Executive Officer

May 10, 2006
Date

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

CK/isk 060424