

**LAWS AND RULES REVIEW COMMITTEE**  
REAL ESTATE COMMISSION  
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, December 9, 2009

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  
Frances Gendrano, Vice Chair, Broker/Honolulu Commissioner  
Michele Sunahara Loudermilk, Public/Honolulu Commissioner  
Carol Ball, Broker/Maui Commissioner  
Trudy Nishihara, Broker/Honolulu Commissioner  
Annette Aiona, Broker/Hawaii Commissioner  
Mark Suiso, Public/Honolulu Commissioner  
Walt Harvey, Broker/Honolulu Commissioner

Neil Fujitani, Supervising Executive Officer  
Jon Ellis Pangilinan, Executive Officer  
Diane Choy Fujimura, Senior Real Estate Specialist  
Amy Endo, Real Estate Specialist  
David Grupen, Real Estate Specialist  
Cynthia Yee, Senior Condominium Specialist  
Cheryl Leong, Condominium Specialist  
Benedyne Stone, Condominium Specialist  
Shari Wong, Deputy Attorney General  
Tammy Norton, Recording Secretary

Others: Wayne Thorburn, PSI Services, LLC  
Aron Espinueva, Hawaii Association of REALTORS®  
Myoung Oh, Hawaii Association of REALTORS®  
David Catanzaro, REMI School

Absent: Stanley Kuriyama, Broker/Honolulu Commissioner

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

Chair's Report: The Chair announced that the Committee may move into executive session to consult with the Commission's attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities in accordance with Section 92-5(a)(4), HRS.

Commissioner Kuriyama was excused from today's meeting. Prior notice of his non-attendance was received.

SEO's  
Report:

### **Schedule of Non-Accessible Dates for January to June 2010**

Commissioners were requested to notate their non accessible dates for January through June 2010 on the calendars provided and to return to Karyn Takahashi.

### **Additional Distribution**

The following material was distributed to the Commissioners prior to the start of the meeting:

8. Budget and Finance Report
  - a. Real Estate Recovery Fund

### **Minutes of Previous Meetings**

Upon a motion by Commissioner Aiona, seconded by Commissioner Nishihara, it was voted on and unanimously carried to accept the minutes of the November 4, 2009, Laws and Rules Review Committee meeting as circulated.

Program of  
Work, FY10:

### **Advice Education and Referral**

The committee acknowledged receipt of the request by the Hawaii Association of REALTORS® (HAR). HAR is requesting a concurrent opinion with their assessment that any proposal to exceed "ten hours of continuing education" requires statutory amendments and cannot be implemented through Hawaii Administrative Rules amendments and would require legislative action.

Mr. Myoung Oh of the Hawaii Association of REALTORS® was present to address any questions the committee may have. Mr. Oh also noted that HAR has transmitted a draft bill to the SEO for the Commission's review and comment. The draft bill includes language to increase to a minimum of 20 hours of continuing education and an increase in the minimum qualifications for applicants.

Deputy Attorney General Wong questioned whether HAR has polled its membership on the increase of CE hours.

Mr. Oh responded that a survey of its membership was conducted a few years back and the outcome was not swayed heavily in either way.

Commissioner Aiona requested a copy of HAR's draft bill be circulated to the Commissioners for their review.

Upon a motion by Commissioner Nishihara, seconded by Commissioner Loudermilk, it was voted on and unanimously carried to issue an informal non-binding interpretation that any proposal to exceed the "ten hours of continuing education" requires a statutory amendment.

### **Legislative Acts and Resolutions**

The draft justification sheet and proposed administration bill relating to restoration periods for chiropractic examiner and real estate broker and

salesperson forfeited professional vocational licenses were distributed for informational purposes.

Commissioner Harvey questioned the length of time determined and felt that it should be less than five years.

It was noted that at the September Real Estate Commission meeting the Commission voted to support proposed legislation to amend section 467-11, Hawaii Revised Statutes, to limit the restoration period of forfeited licenses to five years from the date of forfeiture. PVL has provided the committee with a draft of their proposal which is currently being reviewed by the AG's office.

Commissioner Loudermilk brought to the Committee's attention page 3 of the justification sheet which notes the reason for the five year time limit to restore forfeited real estate broker and salesperson licenses is because the law currently provides different pathways for restoration that allow licensees to fulfill some of the requirements for licensure, but not all requirements, within a period of four years. To preserve this and allow less stringency to be met within the four years, the Commission set the restoration period at five years, after which to ensure minimal competency and consumer protection, licensure would require that all requirements be met.

Commissioner Loudermilk asked that the draft bill be amended to provide clarification as to "reapply for licensure as a new applicant." Clarification needs to be made that a forfeited real estate broker needs to reapply for licensure as a real estate salesperson.

### **Commissioners' Education Program**

The October 2009 issue of the Hawaii State Ethics Commission publication "The High Road" was distributed for informational purposes.

### **Meetings, Workshops, and Reports**

Commissioner Nishihara provided a written report on her participation at the ARELLO Annual Conference held in Miami, Florida in October 2009.

It was noted that due to budgetary constraints, travel was not approved for this conference. Commissioner Nishihara attended and participated in the conference at her own expense. An oral report was presented at the November 2009 Laws and Rules Review Committee meeting.

### **Internet Best Practices Recommended Guidelines**

The guidelines produced by ARELLO were distributed for informational purposes.

Commissioner Nishihara noted that NAR is currently looking into guidelines for social networking.

Chair Abrams suggested comparing ARELLO's guidelines with the Commission's current rules and look into possible rule amendments.

Commissioner Loudermilk noted that any changes to advertising rules should be the same for both internet and print advertising, as both are sources of media.

ARELLO,  
Other  
Organizations  
And  
Jurisdictions:

**National Association of Realtors and Other Boards of Realtors**

The committee acknowledged receipt of Commissioner Nishihara's written report on her participation at the National Association of REALTORS® Conference held in San Diego, California, November 12-16, 2009.

**Federal Trade Commission (FTC) and Department of Justice (DOJ)**

The article entitled "FTC issues new rules on advertising, blogging" from the October 2009 issue of ALQ Real Estate Intelligence Report was distributed for informational purposes.

Special  
Issues:

No report presented.

Open Forum:

Commissioner Harvey requested that a clarification be issued to the Broker Price Opinion article mentioned in a previous Real Estate Bulletin.

Commissioner Loudermilk noted that amendments regarding the BPO issue would fall within the Appraisers statute and not the Real Estate statute.

Deputy Attorney General Wong noted that it would be more appropriate to place this issue on the agenda for future discussion.

Budget and  
Finance  
Report:

Upon a motion by Commissioner Aiona, seconded by Commissioner Nishihara, it was voted on and unanimously carried to accept the Real Estate Recovery Fund Financial Report for the period ending September 30, 2009

Next  
Meeting:

Wednesday, January 13, 2010  
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 Chair adjourned the meeting at 9:30 a.m.

Reviewed and approved by:

/s/ Neil K. Fujitani

\_\_\_\_\_  
Neil K. Fujitani  
Supervising Executive Officer

December 11, 2009

\_\_\_\_\_  
Date

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