

School Files

Hawaii Real Estate Commission

November 2004

<http://www.hawaii.gov/hirec>

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**HAPPY
THANKSGIVING!**

RENEWAL DEADLINE IS NOVEMBER 30

All registrations and certifications for prelicense schools, instructors (including substitute instructors and guest lecturers), continuing education providers, and continuing education courses will expire as of December 31, 2004. The deadline to reregister/recertify is November 30, 2004. Renewal applications were mailed to all schools, instructors, and providers about October 25, 2004. On-line renewals, which is available to real estate brokers (including entities and sole proprietors, as long as there is no address change) and real estate salespersons commenced on October 18, 2004.

2003-2004 core courses created by continuing education providers may not be recertified for the 2005-2006 biennium. The Commission has not approved the development of core courses by continuing education providers for the 2005-2006 biennium.

A postmark of Monday, January 3, 2005 will be honored. For on-line renewals, the deadline remains at midnight, December 31, 2004. After November 30, 2004, a new pocket card by the license expiration date is not assured.

All individuals renewing their license on active status must complete 10 hours of approved continuing education courses. One of these courses must be a mandatory core course. **DO NOT SUBMIT CONTINUING EDUCATION CERTIFICATES WITH YOUR APPLICATION.** Retain the certificates for your personal records.

Individuals who renew their license without satisfying the 10 hour continuing education requirement, will be automatically renewed on inactive status, without further notice. When changing to active status, the licensee must submit the original continuing education certificates with a completed "Change Form" and pay a \$25.00 fee.

As of November 3, 2004, there are about 1,700 new salespersons who received their license in 2004. These individuals who renew their license by the renewal application deadline of November 30, 2004, will be deemed to have completed equivalent to the continuing education requirement and will not have to complete the continuing education requirement for this license renewal.

Principal brokers must renew their individual broker's license along with the brokerage firm's license prior to associating licensees renewing their individual license. Renew both licenses simultaneously. To reregister a branch office, the license of the broker-in-charge must also be successfully renewed in addition to the principal broker's license and the brokerage firm's license.

Principal brokers submitting renewal applications for associating licensees, must attach one (1) check to each associating licensee's application. Do not submit one (1) check to pay for more than one (1) renewal application. Doing so will delay processing for all applications.

Sole proprietors are similarly responsible for renewing their license so their associating licensees may successfully renew their licenses.

The Real Estate Commission will conduct renewal workshops in November to assist brokerage firms in the renewal process. Staff will conduct self-help sessions, accept renewal applications, and review applications, subject to resources and time.

NEW 80-HOUR BROKER COURSE

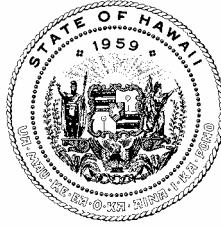


The new, 80-hour broker course will be taught beginning January 1, 2005, by those certified prelicense schools who choose to do so. The new broker exam will be effective February 1, 2005.

All broker candidates who complete the 46-hour prelicense broker's course by December 31, 2004, will receive the usual school completion certificate, which is valid for two years from the date of passing the course. These broker candidates may take the current broker's exam through January 31, 2005, but effective February 1, 2005, the new broker's exam will be in effect. Broker candidates who complete the 46-hour broker course **do NOT** have to take the new 80-hour broker course in order to take the new broker's exam.

Statistics show that the sooner a candidate takes the licensing exam from the date of completing the prelicensing course, the better the passing rate. If a candidate takes the exam within 30 days of completing the prelicense course, 85% passed. If the exam was taken within 90 days of course completion, 70% passed. If the exam was taken within 120 days, 55% passed. If the exam was taken within 180 days after course completion, 50% passed.

In Hawaii, the passing rate for the broker's exam on the first attempt fell to 39% this year. Over the years, the passing rate for the broker's exam has hovered in the low 40% level.



REAL ESTATE COMMISSION 2004 RENEWAL WORKSHOPS

The Real Estate Commission's goal is to make this a successful renewal for the real estate licensees. The renewal workshops are one of the key elements to meet the goal. The workshops provide an opportunity for all real estate licensees, especially brokerage firms, to receive assistance with renewal applications through self-help sessions and be a part of an expedited renewal process. Staff will discuss the renewal process, the applications, and red-flag areas with attendees. There also will be time for questions and answers. The neighbor island locations will also include a Specialist of the Day to answer condo and other real estate questions not related to licensing renewals. The workshops will begin promptly and will continue until there is no more demand. The open workshops are as follows:

Maui	REALTORS Association of Maui, Inc., 441 Ala Makani Pl., Kahului November 10, 2004	9:30 a.m. – 12:30 p.m.
Kauai	Kauai Board of REALTORS, 4359 Kukui Grove, Suite 103, Lihue November 15, 2004	9:30 a.m. – 12:30 p.m.
Kona	Kona Board of REALTORS, 74-5620 Palani Court, # 106, Kailua-Kona November 16, 2004	9:30 a.m. – 12:30 p.m.
Oahu	Honolulu Board of REALTORS, 1136 12 th Avenue, Holomua Room, Honolulu November 18, 2004	9:30 a.m. – 12:30 p.m.
Hilo	Hawaii Island Board of REALTORS, 26 Waiuanuenue Avenue, Hilo November 23, 2004	9:30 a.m. – 12:30 p.m.
Oahu	DCCA, King Kalakaua Building, Queen Liliuokalani Conference Room, 335 Merchant Street, First Floor, Honolulu November 29, 2004	9:00 a.m. – 11:00 a.m.

Completed applications with payment checks will be accepted at the workshops. No cash payments will be accepted. Note: There are other scheduled workshops, which are not included above that have been arranged with brokerage offices or other organizations.

This material can be made available for individuals with special needs. Please call the Executive Officer at 586-2643 to submit your request.

BROKER'S ON-LINE COURSE Request for Proposals

The Real Estate Commission approved a Request for Proposals (RFP) to develop the 80-hour broker's curriculum in an on-line format. The RFP was sent out to interested parties on September 1, 2004, and the deadline to submit proposals was September 24, 2004.

In response to the RFP, the Commission received four proposals. All four proposals did not meet the requirements of the RFP and were rejected. However, based on the proposals submitted, the Commission will now work on a new RFP which may incorporate both the salesperson's and broker's courses in an on-line format. Formal procurement procedures will be followed as the price of the development of an on-line course encompassing the 80 hours for the broker's course, and the current 45-hour salesperson's course (which may change depending on the revision of the salesperson's curriculum) exceeds the small purchase contract requirements of the State.

2005-2006 CORE COURSE REQUEST FOR PROPOSALS

The Real Estate Commission approved a Request for Proposals for development of the 2005-2006 Commission core course at its October 13, 2004 Education Review Committee meeting. The deadline for proposals is November 30, 2004. The deadline for the completed core course is projected for March 30, 2005.

For the 2005-2006 core course, the Commission recommends including topics on scope of services for agents, seller's disclosures, and agency. In addition, the core course will also include law updates for 2005 and 2006.

The 2005-2006 core course, when completed, will once again, be available in both a live presentation and on-line format.

REAL ESTATE POCKET CARD

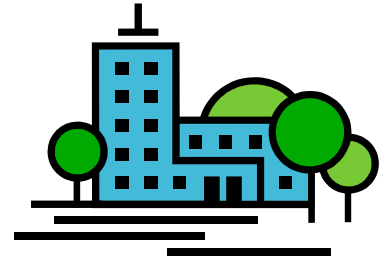
At its October 2004 Education Review Committee meeting, the Commission approved the use of a current, legible, printed copy of the Professional and Vocational Licensing Division's "license screen" or actual on-line review of the "license screen" by the Continuing Education Provider that, at the minimum, reflects the licensee's name, license number, license expiration date, and license status, for continuing education course entrance requirement purposes, and is accepted as "notification of license status from the commission" pursuant to Section 16-99-115, Hawaii Administrative Rules, subject to verification with a picture identification of the licensee.

The copy of the "license screen" is the only acceptable substitute for the original real estate license pocket card issued to all real estate licensees. Wall certificates and other documentation will not be acceptable as meeting the requirement of "notification of license status from the commission."

Further clarification will be made when the Commission next amends or establishes new rules.

NEW MAUI TEST SITE

Promissor, the Commission's test administrator, announced that the Maui test center has relocated to 415 Dairy Road, #D, Kahului, Hawaii 96768. Testing at the new location started on Saturday, November 13, 2004. This will be the permanent test center location.



The new test center is located at the corner of Hana Highway and Dairy Road, across from K-Mart, in the same building as Hawaiian Island Surf and Sport, right next to Mail Boxes Etc. Test candidates must park on the road between the Tesoro Gas Station and the Lexus Dealership.

Prelicense schools will receive information regarding the change.



REVISING THE SALESPERSON'S CURRICULUM

At its October 13, 2004 Education Review Committee meeting, the Real Estate Commission approved a Request for Proposals for the updating and revising of the salesperson's curriculum. The deadline to receive proposals is November 30, 2004. The target date for the completion of the revised salesperson's curriculum is May 5, 2005. Copies of the RFP were sent to all prelicensing schools as well as other interested parties.

The **broker's** curriculum was updated and accepted by the Commission this year after more than 20 years of status quo. The salesperson's curriculum was last updated effective January 1993.



STATUTORY RESERVATIONS ON TITLE IN HAWAII

By Vern Yamanaka, Commissioner, Broker, Hilo

In reviewing the new broker curriculum as it was being revised, developing test questions for the broker's test, and speaking to providers and instructors over the past year, I had the opportunity to revisit an old educational issue that was brought up in the mid 70's.

In 1975, with the advent of geothermal exploration on the Big Island, a new type of value was attributed to real estate. Prior to this time there was little, if any, value attributed to mineral rights, which most landowners assumed were owned by the State of Hawaii. Once geothermal rights were classified as a "mineral" by the Hawaii State Legislature (1974), those lands that were located in a resource area or any potential area (sites were located on all major islands) suddenly held the potential for added value.

The State of Hawaii is a statutory State where any reservation on land needed a statutory reservation in the deeding document. In over 90 percent of lands in Hawaii, there is a statutory

reservation to the State of Hawaii for the mineral rights; however, there are many parcels where there is no reservation to the State, prior government, or individual. In those cases, the mineral rights belong to the property owner.

In the late 70's and 80's, geothermal developers paid property owners royalties and lease payments that amounted to millions of dollars for the right to explore and develop these mineral resources. Today, developers are paying royalties and lease payments to the holders of mineral rights. Payments are also being made to fee owners who do not own the mineral rights under developed land, for access rights. Legal precedent has been established in other States where property owners adjacent to developed resource areas may be able to seek a share of royalty payments if their mineral rights are being mined below the surface.

There are two basic classifications of mineral rights ownership:

- On lands where the State of Hawaii has a documented reservation the fee owner would have the first rights to petition the State for development of resources. Private developers would apply for development rights through or in partnership with the fee owner. The compensation to the fee owner could be in the form of a front end bonus prior to permitting and drilling, lease rent for land utilized in the development, and a royalty payment on production based upon gross sales.
- On lands where there are no statutory reservations, or where other entities/individuals have recorded statutory reservations, the developer may negotiate a lease or purchase the mineral rights associated with that property. The same bonus or premium, lease rent and royalty payment would apply but at a much greater valuation.

In proven resource areas, millions of dollars have been paid to fee owners for exploratory rights, and with the present production of electrical power from geothermal development in Hawaii, royalties are being paid to the owner of mineral and occupier rights. In the 1970's and 80's, over 400,000 acres of land in Hawaii were leased for mineral exploration and there may still be new areas with potential.

In protecting the consumer, all licensees need to be knowledgeable about issues like mineral rights and statutory reservations related to property. In the past, real estate text books and tests have mistakenly perpetuated the idea of absolute State ownership of mineral rights. The new curriculum and tests have been changed to address that issue.

Title reports have acknowledged State ownership of mineral rights with no record of any prior statutory reservation. The individual licensee is obligated to question and check title reports for statutory reservations on all lands, but especially on lands where known resources are present. Licensee liability could be great considering that in the past there has been a case where the mineral right premium and rent has exceeded the full fee value of the property, and other cases where at least 25% of the fee value has been paid in front end premiums for exploratory leases.

We need to recognize the process of statutory reservations on lands not only for mineral rights, but also public access, resource management, water, trail access, and other issues where past owners may reserve future use and rights to lands conveyed to another.

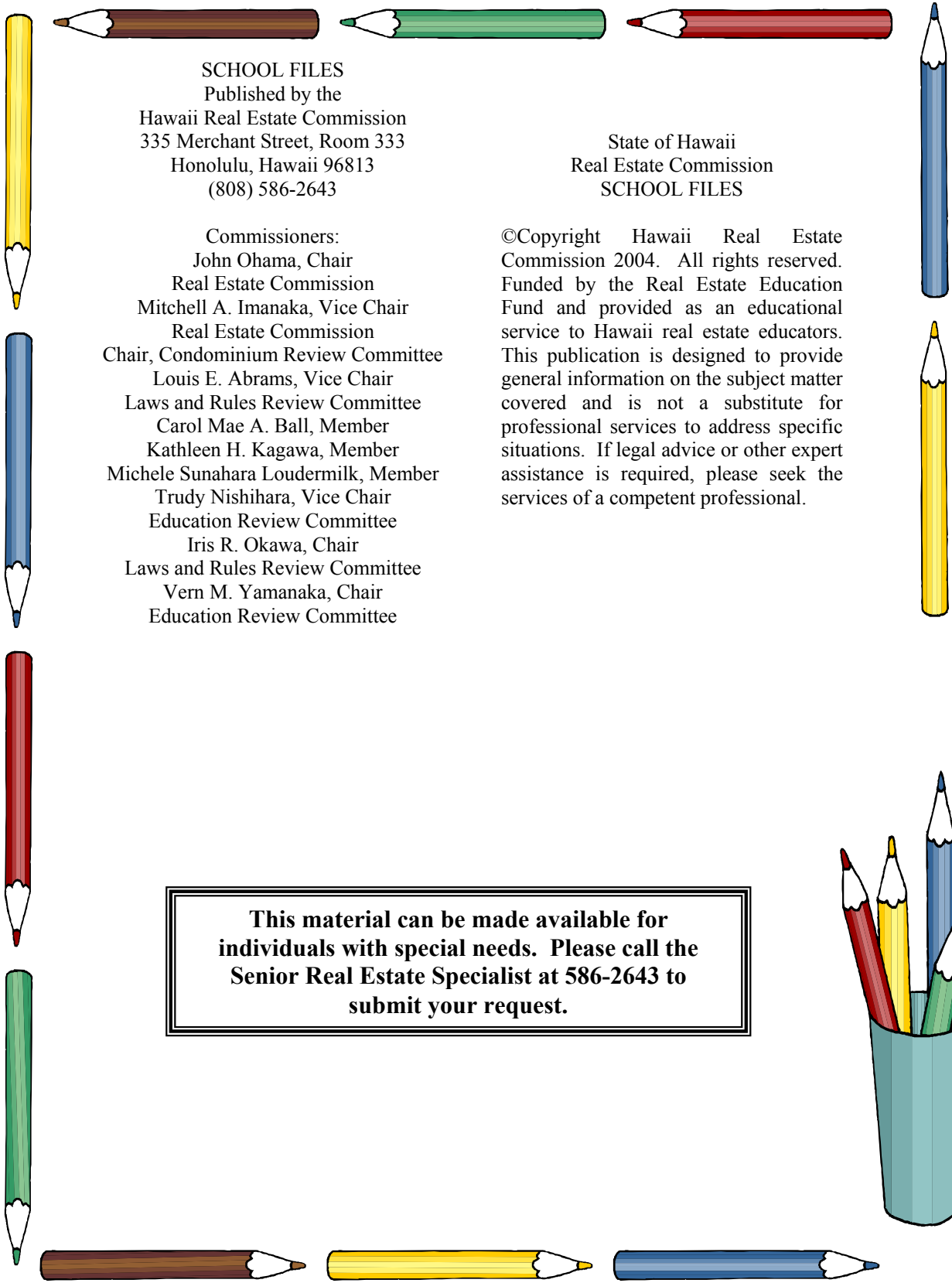
Vern Yamanaka is a broker, and the Commissioner from the Big Island He is the Chair of the Education Review Committee.

**2005
REAL ESTATE COMMISSION
MEETING SCHEDULE**

Laws & Rules Review Committee – 9:00 a.m. Education Review Committee – Upon adjournment of the Laws & Rules Review Committee Meeting Condominium Review Committee – Upon adjournment of the Education Review Committee Meeting, which is upon the adjournment of the Laws & Rules Review Committee Meeting, which convenes at 9:00 a.m.	Real Estate Commission 9:00 a.m.
Wednesday, January 12, 2005	Friday, January 28, 2005
Wednesday, February 9, 2005	Friday, February 25, 2005
Wednesday, March 9, 2005	Thursday, March 24, 2005
Wednesday, April 13, 2005	Friday, April 29, 2005
Wednesday, May 11, 2005	Friday, May 27, 2005
Wednesday, June 8, 2005	Friday, June 24, 2005
Wednesday, July 13, 2005	Friday, July 29, 2005
Wednesday, August 10, 2005	Friday, August 26, 2005
Wednesday, September 14, 2005	Friday, September 30, 2005
Wednesday, October 12, 2005	Friday, October 28, 2005
Wednesday, November 9, 2005	Wednesday, November 23, 2005
Wednesday, December 7, 2005	Friday, December 16, 2005

All meetings will be held in the Queen Liliuokalani Conference Room of the King Kalakaua Building, 335 Merchant Street, First Floor.

Meeting dates, locations and times are subject to change without notice. Please visit the Commission's website at www.hawaii.gov/hirec or call the Real Estate Commission Office at 586-2643 to confirm the dates, times and locations of the meetings. This material can be made available to individuals with special needs. Please contact the Executive Officer at 586-2643 to submit your request.



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