

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, February 14, 2007

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
Michele Sunahara Loudermilk, Vice Chair, Public/Honolulu Commissioner
Annette Aiona, Broker/Hawaii Commissioner (Late Arrival)
Carol Ball, Broker/Maui Commissioner
William Chee, Broker/Honolulu Commissioner
Frances Gendrano, Salesperson/Honolulu Commissioner
Stanley Kuriyama, Broker/Honolulu Commissioner
Trudy Nishihara, Broker/Honolulu Commissioner
Mark Suiso, Public/Honolulu Commissioner

Calvin Kimura, Supervising Executive Officer
Neil Fujitani, Executive Officer
Diane Choy Fujimura, Senior Real Estate Specialist
Lorene Kimura, Real Estate Specialist
Cynthia Yee, Senior Condominium Specialist
Cheryl Leong, Condominium Specialist
Shari Wong, Deputy Attorney General
Irene Kotaka, Secretary

Others: None.

Absent: None.

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 Commission 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.

SEO's Report: **Additional Distribution**

The following materials were distributed prior to the start of the meeting:

4. Program of Work, FY07
 - f. Legislative and Government Report
 - 1) REB Report
 - 2) Hawaii Association of REALTORS – Smart Growth

5. ARELLO, Other Organizations and Jurisdictions
 - a. ARELLO
 - 2) Meetings, Workshops and Reports – Annual Meeting Report

Minutes of Previous Meetings

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Nishihara, it was voted on and unanimously carried to accept the minutes of the January 10, 2007 Laws and Rules Review Committee meeting.

Commission Roster

The latest copy of the Commission's roster was distributed to the Commissioners for their information.

Program of Work, FY07:

Licensing, Registration and Certification Administration

Excerpts from the latest Geographic Report, dated January 11, 2007, were distributed to the Commissioners for their information. The SEO reported that the report may not contain the statistics for the licensees whose renewals are still pending. The information is available on the website at:
<http://www.hawaii.gov/dcca/areas/areas/pvl>

Legislative and Government Participation Report

Legislative Report No. 3 was distributed to the Commissioners for their information. The SEO provided an update of the bills affecting the Commission.

Commissioner Aiona arrived.

Information on REALTORS and Smart Growth was distributed to the Commissioners for their information.

Licensing Renewal

Specialist Kimura reported that approximately 80 per cent of the real estate licensees renewed online.

On January 31, 2007, the Licensing Branch changed the status of those who failed to renew on time to forfeited status.

There are more licensees who renewed their licenses on time than in previous years.

It was suggested that the Commission consider moving the renewal deadline forward for the entity licenses as this may help to eliminate or reduce some of the problems that dependent licensees face. It was also suggested that the Commission consider an earlier cut off date to continuing educators to provide courses.

For the first time, staff mailed a memorandum to all real estate licensees that did not successfully renew by December 15, 2006, a reminder that the renewal deadline was December 31, 2006. Approximately 5-6,000 reminder notices were mailed out and approximately 1,000 were returned to our office as "undeliverable." This notice generated many calls to the Licensing Branch and to the Real Estate Branch.

It was also suggested by Stacie Hiwatashi of the Licensing Branch that the name of the workshop be changed since many licensees expect to attend a presentation. She suggested "Licensee Outreach" or "Licensee Program Service." The Commission thanks Ms. Hiwatashi for her suggestions.

Ad Hoc Committee on Consumer-Broker Relationships

Chair Abrams reported that the next meeting will be held on March 30, 2007, at 1 p.m. in the Queen Liliuokalani Conference Room. The Committee is currently working on drafting rules and hopes to have something ready by June.

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

1. US Department of Justice v. National Association of REALTORS, Case No. 05 C 5140;
2. Federal Trade Commission, MiRealSource Settles Charges it Illegally Restrained Competition; and
3. Inman Real Estate News, DOJ details plans in lawsuit against Realtors, Monday, January 15, 2007

ARELLO, Other Organizations and Jurisdictions:

Meetings, Workshops, and Reports

A copy of the ARELLO Annual Meeting report was distributed to the Commissioners for their information. The Commission acknowledged receipt of the ARELLO Annual Conference report submitted by Commissioners Abrams, Nishihara and the SEO.

Chair Abrams reported that ARELLO is monitoring the tenants-in-common form of ownership.

Commissioner Gendrano mentioned that she had attended a presentation on this and at the end of the seminar, they asked the attendees to write a check.

Chair Abrams said that those offering tenancy-in-common take advantage of the time share laws and there are some securities issues involved. The IRS recognizes it as a 1031 Exchange.

Commissioner Gendrano also mentioned that there are some mainland companies who offer seminars in Hawaii and they target specific age and income level consumers.

Ninety percent of the transactions are sold under the securities law. The Federal and State securities laws would apply.

Chair Abrams stated that he would obtain a copy of the report and would report back to the Commission on whether or not this issue should be considered further.

Special Issues:

Request for Formal Opinion – Rent.com

Lisa Yassinger of Rent.com had submitted a request for a formal opinion on whether or not they would have to be licensed.

If the consumer had a problem with them, they could go to RICO if the company was licensed. If the company was not licensed, it is uncertain if they would have any recourse.

According to the information provided, if a tenant finds and negotiates a lease, they must report it to Rent.com and they would receive a credit from Rent.com. Rent.com is acting like a referral service. They must have an agreement in place. It is a little more involved than placing an ad in the newspaper. They would be generating leads and getting compensated which would require them to be licensed.

Rent.com is arguing that the offer is submitted by the landlord. A question was raised as to whether or not a consumer would have recourse if a problem arose.

Commissioner Gendrano stated that she knows people who use Rent.com for advertising and they only collect a fee.

Rent.com would be receiving compensation. Newspapers do not offer rebates. There were questions on whether or not the lessee would receive a rebate if the landlord paid the fee. The recourse for the consumer would be the same as if they saw the ad in the newspaper.

Rent.com is not the landlord. If the consumer runs into a problem, they would not be under the Landlord-Tenant Code.

Upon a motion by Commissioner Aiona, seconded by Commissioner Ball, it was voted on and unanimously carried to recommend that in light of the Commission's numerous questions regarding Rent.com's request, staff direct Rent.com to file a petition for declaratory relief.

Open Forum: None.

Budget and Finance Report: Upon a motion by Commissioner Chee, seconded by Commissioner Nishihara, it was voted on and unanimously carried to accept the Real Estate Recovery Fund Report for the period ending December 31, 2006.

Next Meeting: Wednesday, March 14, 2007
9:00 a.m.
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Adjournment: With no further business to discuss, the Chair adjourned the meeting at 9:52 a.m.

Reviewed and approved by:

/s/ Calvin Kimura
Calvin Kimura
Supervising Executive Officer

March 14, 2007
Date

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