

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, May 9, 2007

Time: 9:00 a.m.

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

Present: Michele Sunahara Loudermilk, Vice Chair, Public/Honolulu Commissioner
Annette Aiona, Broker/Hawaii Commissioner
Carol Ball, Broker/Maui Commissioner
William Chee, Broker/Honolulu Commissioner
Frances Gendrano, Salesperson/Honolulu Commissioner
Trudy Nishihara, Broker/Honolulu Commissioner
Mark Suiso, Public/Honolulu Commissioner

Calvin Kimura, Supervising Executive Officer
Neil Fujitani, Executive Officer
Lorene Kimura, Real Estate Specialist
Cynthia Yee, Senior Condominium Specialist
David Grupen, Condominium Specialist
Cheryl Leong, Condominium Specialist
Shari Wong, Deputy Attorney General (Late Arrival)
Irene Kotaka, Secretary

Others: Myoung Oh, Hawaii Association of REALTORS

Absent: Louis Abrams, Chair, Broker/Kauai Commissioner
Stanley Kuriyama, Broker/Honolulu Commissioner

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

Chair's Report: The Vice 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.

SEO's **Additional Distribution**

Report:

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

3. SEO's Report

- a. Revised Meeting Schedule
4. Program of Work, FY07
 - f. Legislative and Government Participation Report
 - i. Neighbor Island Outreach – Kauai – June 15, 2007
8. Budget and Finance Report
 - a. Real Estate Recovery Fund

The Deputy Attorney General arrived.

Minutes of Previous Meetings

Upon a motion by Commissioner Aiona, seconded by Commissioner Ball, it was voted on and unanimously carried to accept the minutes of the April 11, 2007 Laws and Rules Review Committee meeting.

Program of Work, FY07:

Licensing, Registration and Certification Administration

Portions of the latest Geographic Report, dated April 16, 2007, was distributed to the Commissioners for their information.

As of the date of the report, there are 19,335 real estate licensees.

The Geographic Report is available on the Professional and Vocational Licensing Division's website at http://www.hawaii.gov/dcca/areas/pvl/main/reports/pvl_geo_report.pdf.

Legislative and Government Participation Report

The SEO reported that staff is still awaiting the final results of the bills passed during this legislative session. Staff is also awaiting the final budgetary figures for the upcoming fiscal year.

Neighbor Island Outreach

The next neighbor island outreach is scheduled for Friday, June 15, 2007, on the island of Kauai. The Laws and Rules Review Committee meeting will begin at 9 a.m. in Conference Rooms A, B and C of the State Office Building, located at 3060 Eiwa Street, Lihue, Kauai. The Education Review Committee meeting and the Condominium Review Committee meetings will follow upon adjournment of the Laws and Rules Review Committee meeting. The Specialist Office for the Day will also be held while the meetings are going on from 9 a.m. to 11:30 a.m.

Commissioners' Education Program

The April 2007 issue of OpenLine was distributed to the Commissioners for their information.

Program of Work, FY08

The Commissioners and those present were asked to provide their comments on the proposed Program of Work and Budget for FY08 to staff as soon as possible.

ARELLO, None.
Other
Organizations
and
Jurisdictions:

Special Issues: **Supreme Court Decision Upsets Realtors, Pleases Banks**

A copy of an article entitled, "Supreme Court decision upsets Realtors, pleases banks," which appeared in the April 17, 2007 issue of Inman News was distributed to the Commissioners for their information.

Tenants in Common/Fractional Ownership or Interest

The two issues mentioned above are becoming a hot topic. Some questions to consider is whether or not it is considered a security, if a security then only those with a securities license can offer to sell, whether a real estate broker can offer to sell under a securities licensee, and whether a real estate broker can be compensated by a securities licensee. LRRC Chair Abrams wanted to start discussing this issue and this issue will also be discussed at the National Association of Realtors (NAR) Meeting.

As reported by NAR and ARELLO, Tenants in common (TIC) are considered securities by the Securities Exchange Commission (SEC) and can only be listed/offered by securities licensee. The securities laws, both federal and states, are very complicated, have rigorous, aggressive enforcement provisions, and severe sanctions including penalties/fines and criminal sanctions. NAR and ARELLO have a working group in place. NAR is working with the SEC to ensure that real estate licensees can receive compensation from securities licensee, as presently it is not permitted.

Fractional ownership interest appears to be a local issue. The Commission has received some requests for information from some Hawaii real estate brokers. The LRRC Chair would like some feedback on the Committee's recommendations on this issue.

The Deputy Attorney General stated that this may affect the time share laws. The Time Share Administrator does not have the resources to insure that it complies with the law. It would only become known if there was a complaint filed.

The LRRC Chair wanted to know if the Commission desired to include this in the rule changes that are being proposed and/or seek assistance of the State's Securities Commissioner.

Open Forum: None.

Budget &
Finance
Report: Upon a motion by Commissioner Chee, seconded by Commissioner Nishihara, it was voted on and unanimously carried to approve the report of the Real Estate Recovery Fund, for the month ending March 31, 2007.

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Next Meeting: Friday, June 15, 2007
9:00 a.m.
**Conference Rooms A, B & C
State Office Building
3060 Eiwa Street
Lihue, Kauai**

Adjournment: With no further business to discuss, the Vice Chair adjourned the meeting at 9:28 a.m.

Reviewed and approved by:

/s/ Calvin Kimura
Calvin Kimura
Supervising Executive Officer

June 15, 2007
Date

[] Approved as is.
[] Approved with amendments. See minutes of _____ meeting.
CK:isk 070529