

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

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, September 4, 2015

Time: 9:30 a.m.

Place: Community Meeting Hale
West Hawaii Civic Center
74-5044 Ane Keohokalole Hwy., Bldg. G
Kailua-Kona, Hawaii

Present: Scott Arakaki, Chair, Public / Honolulu Commissioner
Laurie Lee, Vice Chair, Broker / Honolulu Commissioner
Rowena Cobb, Broker / Kauai Commissioner
Bruce Faulkner, Broker / Maui Commissioner
Scott Sherley, Broker / Hawaii Commissioner
Aleta Klein, Broker / Honolulu Commissioner
Michael Pang, Broker / Honolulu Commissioner

Neil Fujitani, Supervising Executive Officer
Diane Choy Fujimura, Senior Real Estate Specialist
Cynthia Yee, Senior Condominium Specialist
Shari Wong, Deputy Attorney General
Marilyn Antolin, Recording Secretary

Others: Kelly Shaw, Realtor, Koa Realty, Inc.
Rollie Litteral, American Dream Real Estate
Robert Wund, Fairway Villas AOA
Mary Begier, Mary Begier Realty
Bennett Mark, Hawaii County Planning Department

Absent: Nikki Senter, Public / Honolulu Commissioner
Aileen Wada, Broker / Honolulu Commissioner

Call to Order: The Chair called the meeting to order at 9:39 a.m., at which time quorum was established.

Chair's Report: The Chair announced that the Commission may move into executive session to consider and evaluate personal information relating to individuals applying for licensure in accordance with Section 92-5(a)(1), HRS, and/or 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.

Commissioners Senter and Wada were excused from today's meeting. Prior notice of their non-attendance was received.

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

Upon a motion by Commissioner Faulkner, seconded by Commissioner Lee, it was voted on and unanimously carried to accept the minutes of the August 12, 2015, Laws and Rules Review Committee meeting as circulated.

SEO acknowledged and thanked the staff of the Mayor's office for allowing the use of their facilities and the seated audience for their attendance at the Real Estate Commission Committee Meetings and Specialists' Office for the day in Kona.

Program of Work: **Legislative Acts and Resolutions**

SEO requested input and invited discussion on HRS §467-11, Fees; Original License and Biennial Renewals, as a moratorium on renewal contributions of the Real Estate Education Fund currently includes language that states that if at the end of any fiscal biennium it exceeds \$1,200,000, there would be a moratorium on renewal contributions.

SEO announced and thanked Senior Specialist Yee for her research and drafting of the administrative bill. Commissioner Pang inquired of the reason for a moratorium. SEO speculated that the State legislators at that time, on or around 1987, may have been worried of the Real Estate Education Fund becoming a large fund. Since that time, the fund has operated under the cap. However, with the cap in place, Real Estate Commission is hampered in providing better services to the public and licenses.

Commissioner Klein shared that she would like the Real Estate Commission to be able to reallocate the funds as needed. SEO confirmed that the moratorium/cap has been the same at \$1,200,000 for the past 28 years. Commissioner Pang suggested that the moratorium language be completely eliminated. Several other commissioners agreed with Commissioner Pang as the industry now requires more education and programs.

Upon a motion by Commissioner Pang, seconded by Commissioner Klein, it was voted on and unanimously carried to completely remove Section 2, Paragraph (h) of the draft administrative bill.

Rulemaking, Chapter 99, HAR, Real Estate Brokers and Salespersons.

Chair Arakaki inquired about its current status. Deputy Attorney General (DAG) Wong responded that she has recently approved as to form on or about August 28, 2015 and the amendments will move on to the Governor's office for final approval. Chair Arakaki requested that the Commission be kept informed on the status and when available, notification to licensees when the new rules will be in effect.

Commissioners' Education Program

The June 2015 issue of *The High Road*, a publication of the Hawaii State Ethics Commission was provided for informational purposes. SEO mentioned that a

few commissioners attended the ethics training class for State board/commission members on August 26, 2015. As *The High Road* has restarted, hopefully more ethics related articles will be shared in the future.

ARELLO, Other
Organizations And
Jurisdictions:

ARELLO

The article "Fair Housing: U.S. Supreme Court Affirms "Disparate-Impact" Liability, Outlines Limitations" from the August 2015 issue of ARELLO Boundaries was distributed for informational purposes.

Specialist Yee led discussion in regards to the United States Supreme Court ruling that claims based on the "disparate-impact" theory of liability being cognizable under the U.S. Fair Housing Act (FHA). Commissioner Sherley added that there does not appear to be enough press on this subject matter as he felt that it does not only apply to the housing scenario but can also fall under banking. Commissioners agreed that this is an interesting case to follow.

Special Issues: None presented.

Budget and
Finance Report: No report presented.

Next Meeting: Wednesday, October 7, 2015
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 9:55 a.m.

Reviewed and approved by:

/s/ Neil K. Fujitani

Neil K. Fujitani
Supervising Executive Officer

September 16, 2015

Date

Approved as is.
 Approved with amendments. See minutes of _____ meeting.