

**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 11, 2013

Time: 9:00 a.m.

Place: Queen Liliuokalani Conference Room  
King Kalakaua Building  
335 Merchant Street, First Floor  
Honolulu, 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  
Frances Gendrano, Broker/Honolulu Commissioner  
Nikki Senter, Public/Honolulu Commissioner  
Scott Sherley, Broker/Hawaii Commissioner  
Aileen Wada, Broker/Honolulu Commissioner – late arrival

Neil Fujitani, Supervising Executive Officer  
Miles Ino, Executive Officer  
Diane Choy Fujimura, Senior Real Estate Specialist  
Amy Endo, Real Estate Specialist  
David Grupen, Real Estate Specialist  
Cynthia Yee, Senior Condominium Specialist  
Benedyne Stone, Condominium Specialist  
Katherine Linster, Condominium Specialist  
Shari Wong, Deputy Attorney General  
Tammy Norton, Recording Secretary  
Marilyn Antolin, Secretary

Others: Donald Wilson, Esq., Belles Graham Proudfoot Wilson & Chun  
Robert White, Developer  
Calvin Kimura, Condominium Consultant  
Myoung Oh, Hawaii Association of REALTORS®  
Dale Bordner, Hawaii Association of REALTORS®  
Ralph Foulger, Ralph Foulger School of Real Estate  
Jack Sanders, Ralph Foulger School of Real Estate  
Leslie Kobata

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 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.

SEO's Report: Supervising Executive Officer Fujitani expressed condolences on behalf of the Commission and Staff at the passing of former Commissioner Yukio Takeya. Commissioner Takeya was committed to the work of the Commission. Commissioner Takeya served as a member and Vice Chair of the Commission from 1986 to 1994. He was active in the real estate industry having served as a president of the Hawaii Island Board of REALTORS®, president of the Hawaii Association of REALTORS®, and a Director of the National Association of REALTORS®. Commissioner Takeya will be missed.

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

5. ARELLO, Other Organizations and Jurisdictions
  - a. ARELLO

#### **Minutes of Previous Meetings**

Upon a motion by Commissioner Sherley, seconded by Commissioner Faulkner, it was voted on and unanimously carried to accept the minutes of the November 13, 2013, Laws and Rules Review Committee meeting as circulated.

Recess: The Laws and Rules Review Committee went into recess at 9:04 a.m.

Commissioner Wada arrived at 9:15 a.m.

Reconvene: The Laws and Rules Review Committee reconvened at 10:34 a.m.

#### **Program of Work: Rulemaking, Chapter 99, HAR, Real Estate Brokers and Salespersons**

The Committee acknowledged receipt of the Hawaii Association of REALTORS® letter dated November 20, 2013 providing recommendations to its proposed Chapter 99 revisions.

Myoung Oh stated that the Hawaii Association of REALTORS® Board of Directors and Committee are proposing three recommendations for the Commission's consideration.

Recommendation 1 – Proposed Rules 16-99-11 Advertisement. HAR believes including both the license number of the entity and the individual licensee on advertisements will cause confusion with the consumer.

EO Ino noted that situations arise if a brokerage advertises with no individual licensee attached to the advertisement. The advertisement would then include no license number if the brokerage number was not attached. In advertisements with an individual licensee attached, both the entity and the individual license numbers would appear. The intent is to allow the consumer to verify the status of the licensees.

SEO Fujitani noted that he could see how consumers may be confused in small advertisements with limited space.

Commissioner Cobb stated that she does not see confusion occurring on the part of the consumer as the license number should be with the licensee name.

Myoung Oh informed the Committee that HAR is not necessarily against the proposed rule and is willing to work with staff on any amendments.

Recommendation 2 – Proposed Rules 16-99-11 Advertisement (e)(2). HAR recommends not restricting the font size in advertisements as the font size restriction will be difficult to monitor, opens up differences in interpretation, and will also cause confusion amongst licensees and consumers.

Commissioner Sherley commented that if the licensee information is in the forefront you may never know who they work for because the company information/logo is could be so small that it is not legible, especially with the online advertisements.

Recommendation 3 – Phase-In Period of 3 Years. HAR recommends a phase-in period of up to 3 years for the advertising rule changes to take effect.

Commissioner Cobb reported that she heard concerns that it was a cost factor due to printing new cards, advertisements, etc.

Commissioner Sherley noted that the cost factor would occur if the licensee changed brokers, it should not be taken into consideration for rulemaking decisions. The cost incurred is a cost of doing business. The Commission's mission is consumer protection. Commissioner Sherley also commented that a few months ago HAR informed the Commission that rulemaking was taking too long. Now they are informing the Commission that they want the Commission to delay enforcement.

Commissioner Senter questioned Mr. Oh as to the reasoning for a 3 year phase-in period.

Mr. Oh responded that HAR is recommending a phase-in period of up to 3 years to notify its membership of the changes.

Chair Arakaki informed Mr. Oh that the Hawaii Association of REALTORS® comments are appreciated.

Executive Session:

Upon a motion by Commissioner Faulkner, seconded by Commissioner Gendrano, it was voted on and unanimously carried to enter into executive session pursuant to Section 92-5(a)(4), HRS, "To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities and liabilities."

Upon a motion by Commissioner Sherley, seconded by Commissioner Gendrano, it was voted on and unanimously carried to move out of executive session.

Upon a motion by Commissioner Cobb, seconded by Commissioner Gendrano, it was voted on and unanimously carried to continue discussion on Rulemaking at the next scheduled meeting.

### Neighbor Island Outreach

It was reported that the January 8, 2014 Committee meetings will be held in conjunction with the Specialists' Office for the Day in Kahului, Maui at the REALTORS® Association of Maui offices.

ARELLO, Other  
Organizations And  
Jurisdictions:

#### ARELLO

The committee acknowledged receipt of the Report on ARELLO's Annual Conference held September 18-22, 2013 in Seattle, Washington. The written report was submitted by Commissioner Senter, Commissioner Cobb, and Supervising Executive Officer Fujitani.

Special Issues:

None.

Budget and  
Finance Report:

No report presented.

Next Meeting:

Wednesday, January 8, 2014  
9:30 a.m.  
REALTORS® Association of Maui  
441 Ala Makani Place  
Kahului, Maui

Adjournment:

With no further business to discuss, the Chair adjourned the meeting at 11:31 a.m.

Reviewed and approved by:

/s/ Neil K. Fujitani

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Neil K. Fujitani  
Supervising Executive Officer

December 19, 2013

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Date

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