

School Files

Hawaii Real Estate Commission

January 2015

www.hawaii.gov/hirec

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ADVERTISING IN THE NAME OF "TEAM ____"

There appears to be a "trend" in real estate advertising practices where a group of real estate licensees, together as a group within the brokerage they are associated with, advertise in the name of "Team GOPHERIT" (a fictitious name for purposes of this article). It could be a small team of two licensees, or a team of more than two licensees. Nowhere in the advertisement is the name of the brokerage these licensees are associated with. Is this in violation of the Hawaii Administrative Rules ("HAR") and Hawaii Revised Statutes ("HRS") for real estate brokers and salespersons? The short answer is "Yes!"

According to HAR §16-99-11(e)(1), "All advertising and promotional materials that refer to the individual licensee's name, including but not limited to business cards, shall: (1) include the licensee's legal name, name as licensed by the commission, or sole proprietor's trade name as licensed by the commission; . . ." "Team Gopherit" is, more than likely, not registered with the commission. Brokerages, as entities, may attach one trade name to its legal name. If "Team Gopherit" was registered with the Business Registration Division, Department of Commerce and Consumer Affairs, and then attached to the brokerage's legal name as licensed with the commission, e.g. "Brokerage Aloha dba Team Gopherit", then the brokerage may advertise in either the legal name or the trade name. For individual real estate licensees associated with the brokerage, when including the name of the brokerage in their advertisements, either the legal name or trade name may be used.

If the name of the brokerage is not included in the advertisement when the name or names of the individual real estate licensees appear(s) in the advertisement, this is a possible violation of HAR §16-99-11(e)(2), "Identify the licensee with the licensee's associating or employing brokerage firm; . . ."

However, if "Team Gopherit" is not a registered trade name of the brokerage, but the name appears in advertisements by real estate licensees associated with the brokerage, this may be a violation of

Hawaii Revised Statutes (“HRS”) §436B-19(6), “Aiding and abetting an unlicensed person to perform activities requiring a license.” It may also be a violation of HRS §467-7, “Acting as a real estate broker and/or salesperson without a license.”

There are still MORE possible violations which may be found against the respondents who advertise in this manner. These possible violations include:

- 1) HRS §436B-19(17), violating applicable licensing laws, rules
- 2) HRS §467-14(1), making any misrepresentation concerning any real estate transaction
- 3) HRS §467-14(3), pursuing a continued and flagrant course of misrepresentation, or making false promises through advertising or otherwise
- 4) HRS §467-14(8), any other conduct constituting fraudulent or dishonest dealings
- 5) HRS §467-14(13), violating HRS Chapter 467 and the rules adopted pursuant to the statute
- 6) HRS §467-(20), failure to maintain a reputation for or record of competency, trustworthiness and/or fair dealing
- 7) HAR §16-99-3(w), violation of licensing rules

Principal brokers should be aware of the advertising of all associated licensees. Ultimately, the principal broker is responsible for the actions of all real estate licensees associated with his/her brokerage. If a complaint and case are generated regarding a “team” advertisement, the respondents named may be the real estate licensees associated with the advertisement, and also the brokerage and its principal broker.



RECERTIFICATION AND RE-REGISTRATION INFO 2015-2016

By now, all prelicense schools, prelicense instructors, guest instructors, continuing education providers, continuing education courses, both regular and nationally- or ARELLO-certified courses, should have been re-registered or recertified for the 2015-2016 biennium. If re-registering or recertifying after December 31, 2014, a \$10.00 restoration fee must be added to the fees.

Remember, it is the author/owner of the continuing education course that should recertify his or her continuing education courses. There are quite a few courses that have not been recertified as of this issue of “School Files”. The author/owner must complete the “Author/Owner Authorization to Offer Course” form for regular continuing education courses, and submit it to the Real Estate Branch. If the continuing education courses are ARELLO-certified or nationally-certified, the continuing education provider needs to submit the REGULAR continuing education course application and the appropriate fees, along with the “Author/Owner Authorization to Offer Course” form completed by the national organization, or the organization that has ARELLO-certified courses that the continuing education provider wishes to offer.

According to our records, there is only one Commission-approved continuing education provider who is ARELLO-certified. All other continuing education providers who want to offer ARELLO-certified courses, must obtain the permission of the continuing education provider who

has submitted ARELLO-certified courses to the Real Estate Branch for approval, (for example, Dearborn Education), and submit the regular continuing education course application for each course, and the regular continuing education course certification fees.

Continuing Education Courses: There is a need for more continuing education courses on “commercial real estate” and “time share”. If you know anyone who can develop a quality course on these topics, encourage them to submit their course for certification.

For recertified continuing education courses, author/owners should make sure that the information in the courses is current and up-to-date. Remember that law updates to course materials are NOT considered material changes to a course.

Please do not append “2015-2016” to any recertified continuing education course. Awhile back, some author/owners were doing this to differentiate a course title from the originally titled version of the course. Thus, a licensee could take the same course for continuing education credit, as the title is different. Because the rule changes are still moving forward, and hopefully, will be in place in early 2015, licensees will be able to repeat the same continuing education course EVERY OTHER biennium, which is a change from the current rule that states a continuing education course may never be repeated for credit.

Prelicense Schools: Please remember to register each of your “Guest Lecturers” to teach specific topics of the prelicense curriculum for your registered prelicense school. A “Guest Lecturer” is a good starting point for people who are interested in becoming a prelicense instructor and who do not meet the real estate teaching requirements to become a prelicense instructor. Also, a prelicense instructor must also meet the broker experience requirements for Hawaii and be a licensed real estate broker in Hawaii.

If a prelicense school offers online prelicense education, the prelicense school and prelicense instructor must also submit the Supplementary Application for Independent Study Course and Independent Study Course Instructor. This is in addition to the applications or reregistration applications for prelicense school and prelicense instructor.

The Real Estate Education System encompasses both continuing education and prelicense education. The paper school completion certificates will no longer be used. All school completion certificates are printable via the online system. Prelicense schools may not use any other school completion certificate of their own making. Only the Commission’s prelicense online school completion certificate will be accepted at the PSI test sites.



CHAPTER 99 RULE-MAKING PROGRESS

The Hawaii Real Estate Commission held the required public hearing for the proposed Chapter 99, Hawaii Administrative Rules amendments, on Monday, December 1, 2014. Public notice was provided in state-wide publications. However, at the last minute, word was received that the meeting room at the State Capitol was cancelled because of other events taking precedence.

Consequently, another public hearing will be held at a date to be announced.

2015-2016 CORE COURSE

At its monthly meeting on December 10, 2014, the Commission’s Education Review Committee (“ERC”) voted to award the development of the 2015-2016 mandatory core course to Everett Kaneshige, Esq. Mr. Kaneshige is an attorney, a real estate broker, a prelicense instructor, and has been active in the real estate industry for more than 30 years.

The topic for the 2015-2016 mandatory core course is “Condominiums”. This is an immense topic and one that is not generally familiar to many real estate licensees. The recent Commission-sponsored real estate seminar, “Be Condo Smart”, held in November, 2014, at the Honolulu Country Club, was well-attended, and those who attended gave the panel presentation a resounding “thumbs up!”

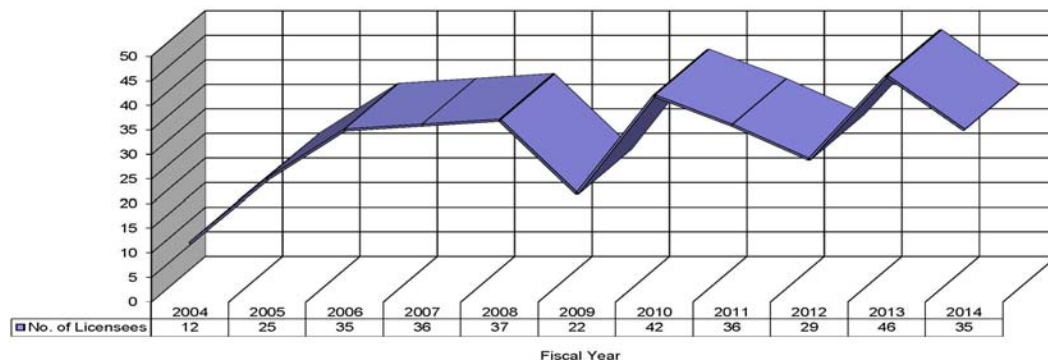
The Commission selected the condominium topic for the 2015-2016 core course because condominium-living and condominium-development is a large part of Hawaii’s landscape. Hawaii developed the nation’s first condominium laws. More than 30% of Hawaii’s residents live in condominiums. The projected condominium developments in Honolulu are huge, and will dominate real estate in the coming years.

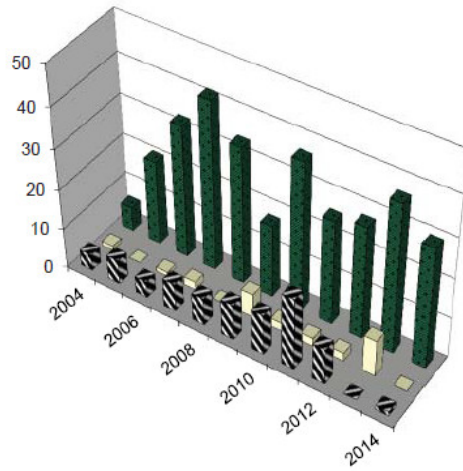
The 2015-2016 mandatory core course will be 8 hours, an increase from last biennium’s 5 hours. The course will be developed in two parts, A and B.



FISCAL YEAR 2014 ANNUAL REPORT STATISTICS

Here are the FY 2014 numbers on administrative actions taken by the Commission. In general, the number of actions decreased from FY 2013. Likewise, the number of complaints filed with the Regulated Industries Complaints Office (RICO) also decreased. See the table and charts below.





	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
■ Licenses Revoked	4	6	4	7	7	9	10	18	9	0	1
□ Licenses Suspended	1	0	1	2	0	6	2	2	2	9	0
■ Licenses Fined	6	21	33	42	34	18	37	26	28	37	30

The top 5 alleged STATUTORY violations in RICO complaints included:

1. §467-14(13) - Violating this chapter (467), chapters 484, 514A, 514B, 514E, or 515, or section 516-71, or the rules adopted pursuant thereto.
2. §467-14(1) - Making any misrepresentation concerning any real estate transaction.
3. §467-14(20) - Failure to maintain a reputation for or record of competency, honesty, truthfulness, financial integrity, and fair dealing.
4. §467-1.6 - Principal brokers management, supervision and responsibilities.
5. §467-14(8) - Conduct constituting fraudulent or dishonest dealings.

The top 5 alleged RULE violations in RICO complaints included:

1. §16-99-3(b) - Licensee shall protect the public against fraud, misrepresentation, or unethical practices in the real estate field.
2. 16-99-3(a) - Licensee shall fully protect the general public in its real estate transactions.
3. §16-99-3(f) - Licensee shall see that financial obligations and commitments are in writing.
4. §16-99-3(o) - Prior to the time the principal broker or the broker in charge is absent from the principal place of business for more than thirty calendar days, and no other broker in charge is registered with the principal place of business, the principal broker shall submit to the commission a signed, written notification of the absence designating a temporary principal broker or temporary broker in charge, who shall acknowledge the temporary designation by signing the notification. In case of prolonged illness or death where the principal broker or broker in charge is unable to act, another broker shall be designated as the temporary principal broker or broker in charge within thirty days of the illness or death with appropriate notification to the commission. A temporary principal broker or broker in charge arrangement shall not exceed a period of six months, with the right to extend prior to expiration for another six months for good cause and with the approval of the commission.
5. §16-99-11 - Advertisements

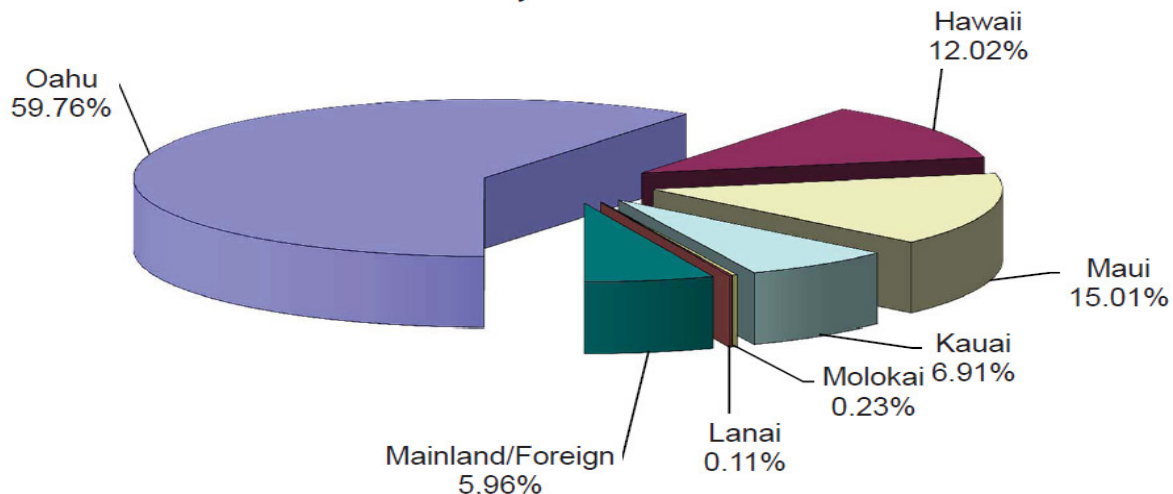
Some other interesting numbers include the number of licensing examination candidates who tested in FY 2014. The number of brokers testing was only 554, the lowest number of broker candidates since 2006. As for salesperson candidates, 2,776 took the licensing exam, the

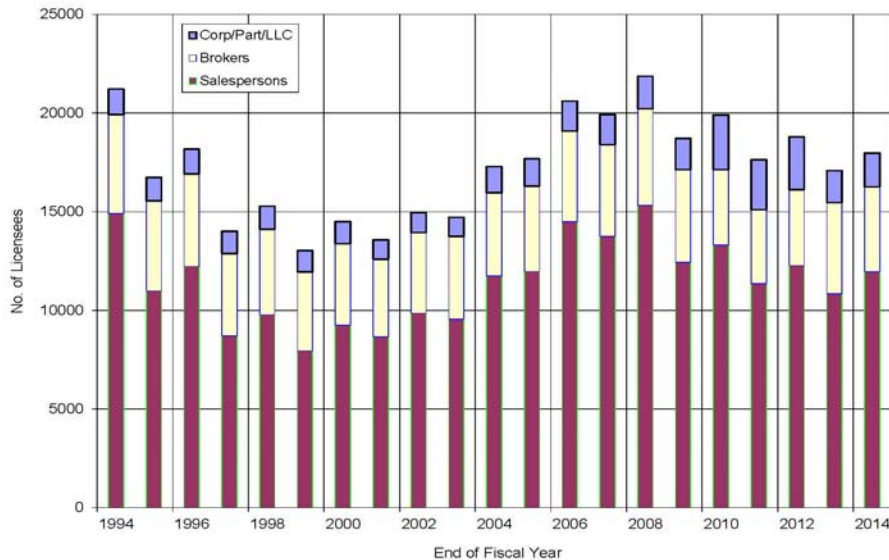
lowest number since 2009. These lower numbers amount to almost a 25% drop in licensing candidates.

While the number of licensing candidates decreased in FY 2014, the number of new licensees increased by 16.7%. Individual broker licensees increased by 6.7%, and new salesperson licenses increased by 22%. The licensing of new entities decreased by 6.8%.

The overall number of real estate licensees continues to increase. By the end of FY 2014, this number increased by 8.1%. Active licenses increased 5.7%, while inactive licenses increased 13.8%.

	Oahu	Hawaii	Maui	Kauai	Molokai	Lanai	Other	Total
Active								
Broker	1,995	487	492	232	14	4	68	3,292
Salesperson	4,467	851	1,185	470	17	6	160	7,156
Sole Proprietor	669	125	112	54	4	0	5	969
Corporation, Partnership, LLC	987	248	248	119	4	3	4	1,613
Total Active	8,118	1,711	2,037	875	39	13	237	13,030
Inactive								
Broker	283	57	46	29	0	0	224	639
Salesperson	2,644	451	693	376	3	7	619	4,793
Sole Proprietor	2	0	0	0	0	0	1	3
Corporation, Partnership, LLC	43	12	10	2	0	0	25	92
Total Inactive	2,972	520	749	407	3	7	869	5,527
Active and Inactive								
Broker	2,278	544	538	261	14	4	292	3,931
Salesperson	7,111	1,302	1,878	846	20	13	779	11,949
Sole Proprietor	671	125	112	54	4	0	6	972
Corporation, Partnership, LLC	1,030	260	258	121	4	3	29	1,705
Total	11,090	2,231	2,786	1,282	42	20	1,106	18,557





SPECIALISTS' OFFICE FOR THE DAY ON MAUI

The Real Estate Commission's Real Estate and Condominium Specialists will offer Specialists' Offices for the Day at the REALTORS'® Association of Maui on Wednesday, January 7, 2015, to discuss real estate licensing and condominium concerns with interested parties.

The Specialists are prepared to discuss questions about licensing laws and rules, license applications, broker experience certificate applications, examination administration, continuing education, new legislation, Commission procedures, educational programs, and related topics.

Other questions that may come up at the sessions concern boards, associations, meetings, managing agents, condominium association registration, condominium hotel operators, fidelity bonding, the condominium property regime statute, public reports, project registration, the condominium dispute resolution program, new legislation, reserves, and other condominium-related topics.

If you have any questions, you may contact a Real Estate Specialist or a Condominium Specialist at (808) 586-2643. You may also write to: Real Estate Commission, 335 Merchant Street, Room 333, Honolulu, HI 96813, or you may email staff at hirec@dcca.hawaii.gov.

The Specialists' Office for the Day program is funded by the Condominium Education Trust Fund and the Real Estate Education Fund.

2015 REAL ESTATE COMMISSION MEETING SCHEDULE

Laws & Rules Review Committee - 9:00a.m. Condominium Review Committee - Upon adjournment of the Laws & Rules Review Committee Meeting Education Review Committee - Upon adjournment of the Condominium Review Committee Meeting	Real Estate Commission 9:00 a.m.
*Wednesday, January 7, 2015	Friday, January 23, 2015
Wednesday, February 11, 2015	Friday, February 27, 2015
Wednesday, March 11, 2015	Friday, March 27, 2015
Wednesday, April 8, 2015	Friday, April 24, 2015
Wednesday, May 13, 2015	Friday, May 29, 2015
Wednesday, June 10, 2015	Friday, June 26, 2015
Wednesday, July 8, 2015	Friday, July 24, 2015
Wednesday, August 12, 2015	Friday, August 28, 2015
Wednesday, September 9, 2015	Friday, September 25, 2015
Wednesday, October 7, 2015	Friday, October 23, 2015
Tuesday, November 10, 2015	Wednesday, November 25, 2015
Wednesday, December 2, 2015	Friday, December 18, 2015

*The January 7, 2015 Committee meetings will be held at the REALTORS® Association of Maui 441 Ala Makani Place, Kahului, HI

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.



CONTINUING EDUCATION PROVIDERS

Abe Lee Seminars
American School of Real Estate Express, LLC
Carol Ball School of Real Estate
Carol M. Egan, Attorney at Law
Coldwell Banker Pacific Properties Real Estate School
Continuing Ed Express, LLC
Dower School of Real Estate
Eddie Flores Real Estate Continuing Education
Hawaii Association of Realtors
Hawaii Business Training
Hawaii CCIM Chapter
Hawaii Island Realtors
Honolulu Board of Realtors
Institute of Real Estate Management – Hawaii Chapter No. 34
Institute of Real Estate Management – National
Kauai Board of Realtors
McKissock, LP
Pacific Real Estate Institute
Property Merchants, Inc. dba All Islands Real Estate School
ProSchools, Inc.
Ralph Foulger's School of Real Estate
Real Class, Inc.
Realtors' Association of Maui, Inc
REMI School of Real Estate
Russ Goode Seminars
Shari S. Motooka-Higa
The CE Shop, Inc
University of Hawaii Maui College – OCET Real Estate School
Vitousek Real Estate Schools, Inc.
West Hawaii Association of Realtors

PRELICENSE SCHOOLS

Abe Lee Seminars
Akahi Real Estate Network, LLC
Carol Ball School of Real Estate
Coldwell Banker Pacific Properties Real Estate School
Continuing Ed Express LLC
Dower School of Real Estate
Fahrni School of Real Estate
Inet Realty
Property Merchants, Inc. dba All Islands Real Estate School
ProSchools, Inc.
Ralph Foulger's School of Real Estate
REMI School of Real Estate
Seiler School of Real Estate
University of Hawaii Maui College – OCET Real Estate School
Vitousek Real Estate Schools, Inc.





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Michael Pang
Oahu Commissioner

Aleta Klein
Oahu Commissioner

SCHOOL FILES

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This material can be made available for individuals with special needs. Please call the Senior Real Estate Specialist at 586-2643 to submit your request.