

EDUCATION 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 Lieutenant Governor's Office as required by Section 92-7(b), Hawaii Revised Statutes.

Date: July 8, 2015

Time: Upon adjournment of the Condominium Review Committee meeting, which is upon adjournment of the Laws and Rules Review Committee meeting, which convened at 9:00 a.m.

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

Present: Rowena Cobb, Chair / Broker / Kauai Commissioner
Aileen Wada, Vice Chair, Broker / Honolulu Commissioner
Bruce Faulkner, Broker / Maui Commissioner
Scott Arakaki, Public Member / Honolulu Commissioner
Nikki Senter, Public Member / Honolulu Commissioner
Laurie A. Lee, Broker / Honolulu Commissioner
Scott Sherley, Broker / Hawaii Island Commissioner
Michael Pang, Broker / Honolulu Commissioner
Aleta Klein, Broker / Honolulu Commissioner

Neil K. Fujitani, Supervising Executive Officer
Miles Ino, Executive Officer
Diane Choy Fujimura, Senior Real Estate Specialist
Amy Endo, Real Estate Specialist
David J. Grupen, Real Estate Specialist
Cynthia Yee, Senior Condominium Specialist
Dathan Choy, Condominium Specialist
Shari Wong, Deputy Attorney General
Tammy Norton, Recording Secretary

Others: Rollie Litteral, American Dream Real Estate
Aron Espinueva, Hawaii Association of REALTORS®
John Dotten

Absent: None

Call to Order: The Chair called the meeting to order at 10:00 a.m., at which time quorum was established.

Chair's Report: The Chair stated the Committee 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 to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities in accordance with section 92-5(a)(4), HRS.

Real Estate
Specialist's Report: Minutes of Previous Meeting

Commissioner Klein noted a clarification to the draft minutes distributed related to the course application "Contemporary Legal Issues in Hawaii Real Estate."

Commissioner Klein stated that the second sentence in her comment should be replaced to read as follows: "Commissioner Klein stated that the language in the class that advised agents to be familiar with all floor plans in a building is ill advised because it may set a standard of practice which is unrealistic and the material is often unobtainable."

Upon a motion by Commissioner Klein, seconded by Commissioner Sherley, it was voted on and unanimously carried to accept the minutes of the June 10, 2015, Education Review Committee meeting incorporating Commissioner Klein's comments.

Continuing Education: Applications

2014-2015 Continuing Education Providers and Courses Ratification List

Upon a motion by Commissioner Sherley, seconded by Commissioner Arakaki, it was voted on and unanimously carried to ratify the following:

<u>Course Registration/Certification</u>	<u>Effective Date</u>
"All Under One Roof OnDemand Course V1.0" (3 credits) (Dearborn Publishing Inc./ARELLO)	June 3, 2015
"Landlord-Tenant Laws 2014" (3 credits) (Hawaii Island REALTORS®)	June 9, 2015

**Course – "Homeowner's Insurance Basics for Real Estate Professionals";
Author/Owner: John Dotten; Provider: Dower School of Real Estate; Course
Categories: Property Management, Finance, Property Ownership and
Development, Risk Management; Clock Hours: 3**

Mr. John Dotten was present to answer any questions the committee may have regarding the course application. He noted that the course is an overview for real estate professionals reviewing homeowner's insurance as it applies at the time of sale and ongoing management. Mr. Dotten noted that Sue Savio has reviewed the documents for this course. He also stated that there are few if any standard policy forms. All changes are at the whim of the underwriter. It is important that real estate licensees stay away from what is covered and what is not covered under the policy and refer the client to an insurance professional.

Mr. Dotten was asked to state the purpose of the course, to which he responded to provide real estate professionals an overview of how insurance works.

Chair Cobb noted that on page 1 of the course outline, under "Professional Limitations", it states in part "The purpose of this course is solely to provide a general sense of the internal operations of condos and to begin to give a sense of how condos function." This does not appear to be the content of the course, which, according to the title is homeowner's insurance.

Mr. Dotten responded that he will amend the purpose as noted in the course handouts.

Commissioner Klein commented that page 2 of 7, item #8 states "Real estate professionals are not required to understand how insurance works for their clients. This needs to be done so professionals do not exceed their area of expertise." The statement is not clear, and appears to contradict itself.

Mr. Dotten responded that there should be an advanced understanding of how real estate meshes with the insurance industry, but licensees should not engage in providing advice to clients or attempt to be an expert in insurance.

It was also noted that Mr. Dotten references both condominium and homeowners insurance policies throughout the course.

Mr. Dotten responded that the course covers both. Real estate licensees should refer their clients to a qualified insurance agent regarding insurance policy questions.

Mr. Dotten was questioned on the definition of "adjuster" as the handouts state the following: "This is the person who cuts the check – or goes to the person within the company to cut the check. And cutting the check is what insurance is about."

Mr. Dotten responded that the client, waiting for their money back, would want to know who would be handling the claim at the point of check issuance, which is the adjuster.

It was suggested that Mr. Dotten elaborate on the definition of "adjuster" and "value."

Commissioner Faulkner suggested more emphasis on disclosures of unpermitted areas/buildings, not covered by insurance.

Mr. Dotten responded that if the illegal structure was scheduled in the insurance policy, it should be covered and considered in the value, although the property may not be rebuilt or would need to be rebuilt in a different location.

Mr. Dotten noted that the course was written to be non-specific so that real estate licensees do not get in trouble. What is and is not covered under an insurance policy should be handled by the insurance agent.

It was suggested that the relationship between the HO6 insurance and the condominium's master policy be discussed.

Upon a motion by Commissioner Sherley, seconded by Commissioner Senter, it was voted on and unanimously carried to take the matter under advisement.

Course – "Death, Family Feuds, and Creditor Issues: How to Deal with the Partition of Real Property"; Author/Owner: Scott C. Arakaki and Bryan P. Andaya; Provider: Eddie Flores Real Estate Continuing Education; Course Categories: Contracts, Dispute Resolution, and Broker Management; Clock Hours: 3

Commissioners Arakaki and Senter recused themselves from discussion and voting due to a conflict of interest.

Co-author of the course, Mr. Scott Arakaki, was present to answer any questions the committee may have. Mr. Arakaki stated that the course provides an

overview of issues a licensee may face when representing a sale subject to a partition action. The topics include common problems with co-ownership of non-marital property, legal actions to resolve ownership disputes, possible actions to minimize disputes, and potential issues for real estate licensees.

Specialist Yee questioned if this is the same partition action as would be taken in §514B-47, "Removal from provisions of this chapter".

Mr. Arakaki responded unless Chapter 514B has its own partition remedy, it would fall under the same partition action as noted in the course.

Upon a motion by Commissioner Sherley, seconded by Commissioner Pang, it was voted on and carried to take the matter under advisement. Commissioners Senter and Arakaki abstained from voting as they were recused.

Course – "Residential & Commercial Evictions in Hawaii and New Statutes"; Authors/Owners: Scott C. Arakaki and Bryan Andaya; Provider: Eddie Flores Real Estate Continuing Education; Course Categories: Real Estate Law, Property Management, Property Ownership and Development; Clock Hours: 3

Commissioners Arakaki and Senter recused themselves from discussion and voting due to a conflict of interest.

Co-author of the course, Mr. Scott Arakaki, was present to answer any questions the committee may have. Mr. Arakaki stated that the course provides a general overview of common issues in residential and commercial evictions in Hawaii and summarizes some of the new Hawaii statutes impacting residential evictions.

Upon a motion by Commissioner Sherley, seconded by Commissioner Pang, it was voted on and carried to take the matter under advisement. Commissioners Senter and Arakaki abstained from voting as they were recused.

Continuing Education Core Course – Train-the-Trainer 6/24/15, offerings of Core A 6/26/15

Positive evaluations of the Train the Trainer session were received.

Commissioner Sherley noted that prior to offering the core course A, licensees did not seem to be interested in the course topic of condominiums. Licensees, upon completing the course, provided positive feedback, noting the information gained to be pertinent.

Prelicense Education: No report presented.

Administration of Examinations: PSI

Licensing Examination Statistics – June 2015

Examination statistics for June 2015 were distributed to the Commissioners for their information.

School Pass/Fail Rates – June 2015

School pass/fail rate statistics for June 2015 were distributed to the Commissioners for their information.

School Summary by Test Category – June 2015

Copies of the June 2015 test category summary reports, by school, were distributed to the Commissioners for their information.

Exam Monitoring – Report – Test Center Monitoring - Kauai

Specialist Endo monitored the Kauai test site on June 13, 2015. Her written evaluation was distributed for informational purposes. Specialist Endo noted that in addition to real estate exams, PSI has recently added testing of postal workers. As a result, PSI has added 3 additional sessions increasing testing to 4 Saturdays per month.

Educator's Forum: **Hawaii Association of REALTORS®** – No discussion presented.

Public and Private Institutions of Higher Education – No discussion presented.

Program of Work: Instructor's Development Workshop

"T3 – Training Trainers to Train" offered by the Hawaii Association of REALTORS® pursuant to the contract with the Commission, will be held on August 12 & 13, 2015, and is targeted for new or beginning instructors. An IDW for seasoned instructors will be offered at a later date this year.

Budget and Finance Report: Real Estate Education Fund

Upon a motion by Commissioner Pang, seconded by Commissioner Sherley, it was voted on and unanimously carried to accept the Real Estate Education Fund report for the fiscal year ending March 31, 2015.

Executive Session: Upon a motion by Commissioner Sherley, seconded by Commissioner Pang, it was voted on and unanimously carried to enter into executive session pursuant to Section 92-5(a)(1), HRS, "To consider and evaluate personal information, relating to individuals applying for professional or vocational licenses cited in section 26-9 or both;" and 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 Pang, it was voted on and unanimously carried to move out of executive session.

Continuing Education: Applications

Course – "Death, Family Feuds, and Creditor Issues: How to Deal with the Partition of Real Property"; Author/Owner: Scott C. Arakaki and Bryan P. Andaya; Provider: Eddie Flores Real Estate Continuing Education; Course Categories: Contracts, Dispute Resolution, and Broker Management; Clock Hours: 3

Commissioner Lee moved to approve "Death, Family Feuds, and Creditor Issues: How to Deal with the Partition of Real Property" as a three credit hour continuing education elective course, under the course categories Contracts, Dispute Resolution, and Broker Management. Commissioner Pang seconded the motion. Commissioners Senter and Arakaki were recused. The motion was voted on and carried.

Course – "Residential & Commercial Evictions in Hawaii and New Statutes"; Authors/Owners: Scott C. Arakaki and Bryan Andaya; Provider: Eddie Flores Real Estate Continuing Education; Course Categories: Real Estate Law, Property Management, Property Ownership and Development; Clock Hours: 3

Commissioner Lee moved to approve "Residential & Commercial Evictions in Hawaii and New Statutes" as a three credit hour continuing education elective course, under the course categories Real Estate Law, Property Management, Property Ownership and Development. Commissioner Wada seconded the motion. Commissioners Senter and Arakaki were recused. The motion was voted on and carried

Course – "Homeowner's Insurance Basics for Real Estate Professionals"; Author/Owner: John Dotten; Provider: Dower School of Real Estate; Course Categories: Property Management, Finance, Property Ownership and Development, Risk Management; Clock Hours: 3

After a review of the information presented, Commissioner Sherley moved to defer the course "Homeowner's Insurance Basics for Real Estate Professionals" with the following recommendations.

1. As the author of the subject course, Mr. Dotten appears to have good knowledge of the course subject matter. However, the course presentation is not organized well, is haphazard and is like a "shotgun approach." There are too many topics included. It would be clearer and less confusing to the licensee to narrow the focus of the course.
2. The presentation of the course content needs to be worked on. The "Property/Casualty Insurance – Questions and Answers" contained items where no information was available in the course materials.
3. Not all of the items were addressed in the Commission's letter dated July 10, 2014 regarding the initial submission of this course application. Specifically, item #3 stated, "It would be helpful and illustrative to include samples of forms (or parts of the forms) when going through the different types of insurance. There are charts available that summarize insurance coverage."

To address this item of concern, consider including existing, redacted forms for use as examples in the course materials. If using an existing, redacted form, a review of it during the class would provide a clear outline of the condominium insurance topic.

4. The subject matter of the course is worthwhile. Licensees may benefit from learning about insurance as it relates to real estate.

Item #8 of the course application states, "Real estate professionals are not required to understand how insurance works for their clients. This needs to be done so professionals do not exceed their area of expertise." The statement is not clear, and appears to contradict itself.

On page 1 of the course outline, under "Professional Limitations" you write, "The purpose of this course is solely to provide a general sense of the internal operations of condos and to begin to give a sense of how

condos function." This does not appear to be the content of the course, which, according to the title is homeowner's insurance.

On page 3, at the top, you list the word "Adjuster" and a definition for Adjuster. "This is the person who cuts the check – or goes to the person within the company to cut the check. And cutting the check is what insurance is about." Please clarify and expand the definition. This is the person who determines coverage, who consumers deal directly with in the beginning and end of the entire insurance transaction. To define the adjuster as the person who cuts the check is not acceptable.

Please also review the term "Value" and its definition.

5. The relationship between the HO6 insurance and the condominium's master policy should be discussed.

Please rewrite and better organize the course content and consider obtaining assistance in doing so from the continuing education provider noted on the course application, Dower Real Estate (sic).

Commissioner Pang seconded the motion. The motion was voted on and unanimously carried.

Next Meeting:

Wednesday, August 12, 2015

Upon adjournment of the Condominium Review Committee Meeting, which is upon adjournment of the Laws and Rules Review Committee meeting, which convenes at 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, Chair Sherley adjourned the meeting at 11:19 a.m.

Reviewed and approved by:

/s/ Diane Choy Fujimura

Diane Choy Fujimura
Senior Real Estate Specialist

July 14, 2015

Date

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Minutes approved as is.

Minutes approved with changes, see minutes of _____