

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, August 10, 2016

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
Nikki Senter, Public / Honolulu Commissioner
Scott Sherley, Broker / Hawaii Commissioner
Aileen Wada, Broker / Honolulu Commissioner
Aleta Klein, Broker / Honolulu Commissioner

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
Benedyne Stone, Condominium Specialist
Dathan Choy, Condominium Specialist
Shari Wong, Deputy Attorney General
Tammy Norton, Recording Secretary

Others: Dale Head, Condominium Owners Coalition
David Kenny, Savio Academy of Real Estate
Chanda Turnbull, PSI Services
Jo Anne Wingate, PSI Services
Wayne Thornburn, PSI Services
John White, Condo Owner's Coalition
Myoung Oh, Hawaii Association of REALTORS®
Lila Mower, Hui 'Oia'i'o
Barbara Nishikawa, BIA Hawaii
M. Russell Goode, Savio Academy of Real Estate

Absent: Michael Pang, Broker / Honolulu Commissioner

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.

Commissioner Pang was excused from today's meeting. Prior notice of his non-attendance was received.

SEO's Report:

Introductions, Announcements, Correspondence & Additional Distribution

SEO Fujitani introduced Carleen Weisbarth-Jose. Ms. Weisbarth-Jose joined the Real Estate Branch as the new real estate education office assistant who will be working with the Schools, Providers, and Instructors.

Minutes of Previous Meetings

Upon a motion by Commissioner Sherley, seconded by Commissioner Lee, it was voted on and unanimously carried to accept the minutes of the July 13, 2016, Laws and Rules Review Committee meeting as circulated.

Program of Work:

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

The committee acknowledged receipt of Hawaii Association of REALTORS® ("Realtors") July 27, 2016 letter expressing its support for the revised amendments to HAR Chapter 16-99-11, as amended in the latest "alternate draft v.8.2."

The committee reviewed draft 8.2v along with the Realtor's proposed amendments to §16-99-11(h). Myoung Oh was present representing the Hawaii Association of REALTORS®.

Commissioner Klein noted that the Realtors' letter states that their proposed amendments to the draft are non-substantive and do not alter the intent nor substance of the draft. She questioned who crafted the proposed amendments.

Mr. Oh responded that Ashford and Wriston attorneys along with Kimo Stone crafted the proposed amendments and provided it to the Realtors.

Commissioner Klein stated that she is concerned that the proposed amendments will create a margin of confusion in real estate solicitation materials. She asked Mr. Oh how significant the proposed amendments are to the Realtors.

Mr. Oh responded that the changes to the REB proposed draft were minor changes which did not involve a long drawn out discussion as the changes proposed were non-substantive.

Deputy Attorney General Wong asked for clarification on whether the proposed amendments submitted by HAR were discussed with the task force or only at its Realtors' Executive meeting.

Mr. Oh responded in the affirmative, that the Realtors discussed the draft and tweaked it with minor changes.

Executive Session:

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

Commissioner Klein stated that after discussion, Commissioners agreed that the word "All" is referenced in items (a) and (e) of HAR §16-99-11 and for consistency purposes should be retained in HAR §16-99-11(h).

Commissioner Klein moved to approve the Real Estate Branch draft v8.2 with the amendment to HAR §16-99-11(h) to include ", provided that t" in the first sentence to read "All real estate solicitation materials shall include the brokerage's license number, provided that: ~~¶~~the license number of the brokerage is not required for solicitation materials which contain the legal name or license name of an individual real estate licensee and the licensee's license number..." Commissioner Cobb seconded the motion. The motion was voted on and unanimously carried.

Legislative and Government Participation Report

A draft bill relating to the real estate education fund was reviewed by the committee. The bill attempts to remove HRS §467-11(h), a cap placed on the real estate education fund. The bill is basically the same bill submitted to the Legislature in 2016.

Commissioner Lee questioned the issues raised during this past legislative session.

SEO Fujitani noted that there was confusion between the real estate education fund and the condominium education trust fund. The house did not hold a hearing on the Bill. Staff has since been trying to educate the legislators on the two funds and their purposes.

The real estate education fund funds everything in real estate from consumer education to personnel. If the fund remains capped, instead of having a two-year operating budget, the Branch will be operating on a four-year operating budget. With the current cap the Branch may be looking at cutting back services and laying off personnel.

Commissioner Klein suggested staff look back when the fund was established to determine how the cap was set, and provide a budget analysis to demonstrate to the legislature how out of balance the fund currently is.

Deputy Attorney General Wong questioned if it is more palatable to put in a different cap amount.

SEO Fujitani responded that the Branch may go that route as an alternative if it arises.

Upon a motion by Commissioner Klein, seconded by Commissioner Faulkner, it was voted on and unanimously carried to approve submitting the draft bill for an act relating to the real estate education fund by removing HRS §467-11(h).

Neighbor Island Outreach

The September 14, 2016 Committee meetings, in conjunction with the Specialists' Office for the Day program, will be held on Kauai at the Grove Farm Building Conference Room in Lihue.

Licensing Renewal

Information on the key points to the 2016 real estate license renewal was provided to the Commissioners. Real estate license renewals will go live on October 17, 2016.

SEO Fujitani informed the Commissioners that PVL held a public hearing regarding the Chapter 53 Fee increase. PVL received opposition to the automatic fee increase every six years. PVL is currently removing the language on the automatic fee increase and moving forward on the rule revisions. The new rules are anticipated to be in effect by the real estate license renewals.

SEO Fujitani noted that HAR, Chapter 53 Fees are a PVL function that affects all of its boards and commissions across the board.

Commissioner Klein suggested that PVL evaluate fees every two years so that fee increases are gradual.

Commissioner Lee also suggested that the fees be handled like that of a reserve study in condominiums.

Chair Arakaki requested that staff convey to PVL the Commission's concerns and suggestion of gradual and proportional fee increases.

ARELLO, Other
Organizations And
Jurisdictions:

No report presented.

Special Issues:

None.

Budget and
Finance Report:

No report presented.

Next Meeting:

Wednesday, September 14, 2016
9:30 a.m.
Grove Farm Building Conference Room
3-1850 Kaunualii Hwy.
Lihue, Kauai

Adjournment:

With no further business to discuss, the Chair adjourned the meeting at 9:31 a.m.

Reviewed and approved by:

/s/ Neil K. Fujitani

Neil K. Fujitani
Supervising Executive Officer

August 10, 2016

Date

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