

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, February 8, 2017

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
Michael Pang, Vice Chair, Broker / Honolulu Commissioner
Laurie Lee, Broker / Honolulu Commissioner
Rowena Cobb, Broker / Kauai Commissioner
Bruce Faulkner, Broker / Maui Commissioner
Nikki Senter, Public / Honolulu Commissioner
Aileen Wada, Broker / Honolulu Commissioner
Aleta Klein, Broker / Honolulu Commissioner
Sean Ginoza, Broker / Hilo 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: David Yang
James Stone, West Hawaii Association of REALTORS®
Marsha Shimizu, Hawaii Association of REALTORS®

Absent: None

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.

The Chair further announced that the agenda format has changed slightly and that discussion is limited to what is on the agenda. If there is an issue which you

would like the committee to entertain, please inform staff and it will be placed on the agenda of the next meeting.

Commissioner Wada questioned the change in agenda format.

Executive Session: Upon a motion by Commissioner Wada, 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 Wada, seconded by Commissioner Klein, it was voted on and unanimously carried to move out of executive session.

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

Upon a motion by Commissioner Pang, seconded by Commissioner Faulkner, it was voted on and unanimously carried to accept the minutes of the January 11, 2017, Laws and Rules Review Committee meeting as circulated.

Program of Work: **Legislative and Government Participation Report**

Senate Bill No. 394 Relating to Real Estate Brokers - Creates criminal penalties for real estate brokers for improper deposit, segregation, or disposition of client trust account funds. Requires the principal broker to report the client trust account number and name of the managing institution to the real estate commission. Specifies that the principal broker must report changes in the account number and account location within ten days of a change. Authorizes the real estate commission to take action in circuit court to enforce client trust account requirements.

It was questioned at the hearing whether the requirement of a fidelity bond would be necessary. The committee considered it, but passed the measure as is.

House Bill No. 35 Relating to Condominiums - Establishes an Office of Condominium Complaints and Enforcement in the Department of the Attorney General to intervene in condominium disputes. Requires Legislative Reference Bureau to study extent of condominium disputes and efficacy of the Office of Condominium Complaints and Enforcement. Appropriates money.

The measure was passed with amendments. The bill may be gutted and replaced with language from House Bill No. 244 which deals with non-judicial foreclosures.

House Bill No. 200 Relating to Condominiums - Broadens the scope of condominium related disputes for which an apartment owner or the board of directors can mandate mediation. Lowers the additional annual condominium education trust fund fee, used to support costs of mediation, to 75 cents times the number of condominium units included in a registered project or association and discourages future surpluses of the fee. Specifies that any surplus funds collected for the additional annual condominium education trust fund to support mediation may be used for any education purpose provided under section 514B-71(a), HRS. Amends the conditions that mandate mediation and exceptions to mandatory mediation.

Decision making is currently ongoing. The Commission provided testimony in opposition of the measure and commented that the addition of design and defect claims to mandatory mediation is unwarranted and that the Commission cannot anticipate or predict the use of mediation by owners for resolving disputes, if the Commission failed to set aside enough monies from any "surplus", it would be unable to adequately subsidize the mediation program for owners.

House Bill No. 405 Relating to Condominiums - Establishes a condominium unit owner hotline to provide unit owners with legal information relating to disputes with a condominium's board of directors. Requires directors of associations with 20 or more dwelling units to complete an online ethics course offered through the Real Estate Commission.

The measure has been deferred.

House Bill No. 406 Relating to Condominium Property Regimes - Requires the board of directors of residential condominiums of twenty or more residential dwelling units to take and satisfactorily complete an online ethics course offered through the Real Estate Commission.

The Commission's testimony did not support this bill due to its mandatory education component. The measure passed with amendments.

ARELLO:

2016 ARELLO Annual Conference Report

The report was distributed for informational purposes. Commissioners were reminded that the 2017 ARELLO Annual Conference will be held in Honolulu in September 2017.

Budget and
Finance Report:

Upon a motion by Commissioner Pang, seconded by Commissioner Lee, it was voted on and unanimously carried to accept the Real Estate Recovery Fund Financial Report for the period ending September 30, 2016.

Next Meeting:

Wednesday, March 8, 2017
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 9:56 a.m.

Reviewed and approved by:

/s/ Neil K. Fujitani

Neil K. Fujitani
Supervising Executive Officer

February 9, 2017

Date

[X] Approved as is.
[] Approved with amendments. See minutes of _____ meeting.