

**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, March 14, 2018

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  
Bruce Faulkner, Broker / Maui 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  
Carole Richelieu, Senior Condominium Specialist  
Benedyne Stone, Condominium Specialist  
Dathan Choy, Condominium Specialist  
Shari Wong, Deputy Attorney General  
Tammy Norton, Recording Secretary

Others: Beth Holiday, Hawaii Business Training

Absent: Rowena Cobb, Broker / Kauai Commissioner  
Nikki Senter, Public / 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.

Commissioners Cobb and Senter were excused from today's meeting. Prior notice of their non-attendance was received.

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

Upon a motion by Commissioner Ginoza, seconded by Commissioner Lee, it was voted on and unanimously carried to accept the minutes of the February 14, 2018, Laws and Rules Review Committee meeting as circulated.

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

Copies of the following bills were provided and available for discussion.

House Bill No. 1874 HD 1 / Senate Bill No. 2060 SD 2 Relating to Condominiums – Expands the scope of the condominium education trust fund to cover voluntary binding arbitration between interested parties. Amends the conditions that mandate mediation and exceptions to mandatory mediation. Makes conforming amendments.

Expansion of the mediation program to permit condominium education trust fund fees to be used for voluntary binding arbitration. A hearing on House Bill No. 1874, HD 1 was held before Chair Baker and the Senate Consumer Protection and Commerce committee yesterday. Provided testimony to clarify if the intent of the bill was to allow every possible scenario to be mediated and expanding the allowable parties and issues. A response in the affirmative was received. The committee also took into account a five year sunset provision.

The Senate companion bill will be heard this afternoon before the House Consumer Protection Committee.

Commissioner Wada commented that she recently attended a HCCA seminar where a speaker noted that there is over one million dollars available in the fund. She was not sure where the speaker received this inaccurate amount from.

Specialist Richelieu noted that this bill opens up CETF funded arbitration and mediation to any dispute between anyone, which may not be related to the condominium, so long as there is an agreement to enter into mediation or arbitration by the board or owner.

Specialist Choy commented that the bill as written would allow funded mediation and arbitration which may have nothing to do with condominium living and in essence will be paying for therapy through the condominium education trust fund.

Chair Arakaki commented that it could be used as a controlling factor as the board may not agree to mediate with something that is not necessarily important to the association.

Commissioner Klein was concerned if the board could use this as a harassment tool against owners.

Staff responded in the affirmative.

Act 187, SLH 2013 increased a per unit fee by \$1.50 per year dedicated to supporting mediation of condominium related disputes. At the end of every fiscal year, any unexpended amounts paid into the CETF to support mediation of condominium related disputes shall be used for educational purposes. The fund has paid out over \$60,000 so far, this fiscal year.

It was noted that the legislative sponsor of this bill has engaged in mediation with her condominium association and was successful.

House Bill No. 2539 HD 1 Relating to Planned Communities – Requires the counties to designate an agency to inform the public and hold a hearing when lands included in a community master plan are proposed for sale and intended to be used for a purpose other than as proposed in the master plan.

Senate Bill No. 2524 SD 1 Relating to County Land Use Requirements – Requires agricultural lands that are subdivided and leased for agricultural uses or activities to comply with county subdivision standards. Requires condominium property regimes to comply with county subdivision or equivalent requirements. Requires that an application for registration of a project in a county agricultural zoning district or preservation zoning district include a verified statement, signed by an appropriate county official, that the project is in compliance with any supplemental county ordinances, county subdivision standards, and other rules.

House Bill No. 2539 HD1 and Senate Bill No. 2524 SD 1 are similar in that they both deal with county land use requirements. The Commission provided testimony on both bills to provide education on the differences between the CPR process and county rules. Subdivision and CPR have very different process. Subdivision rules cannot be used for the CPR process as they will cause unintended consequences. Both bills are moving forward and have crossed over. There are several resolutions addressing the same issues.

Commissioner Klein questioned Section 5 of House Bill No. 2539, HD 1 which lists as effective date of July 1, 2050.

SEO Fujitani responded that some bills include what is known as a "defective date" or "defective effective date" to facilitate further discussion on the bill.

ARELLO, Other  
Organizations And  
Jurisdictions:

**ARELLO Boundaries – "Kansas Wire Fraud Case Highlights Potential Agent Liability" March 2018**

The article "Kansas Wire Fraud Case Highlights Potential Agent Liability" from the March 2018 issue of ARELLO Boundaries was provided for informational purposes.

Next Meeting: Wednesday, April 11, 2018  
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 9:21 a.m.

Reviewed and approved by:

/s/ Neil K. Fujitani

\_\_\_\_\_  
Neil K. Fujitani  
Supervising Executive Officer

March 15, 2018

\_\_\_\_\_  
Date

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