

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, March 6, 2019

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
Sean Ginoza, Vice Chair, Broker / Hawaii Island Commissioner
Bruce Faulkner, Broker / Maui Commissioner
Aleta Klein, Broker / Honolulu Commissioner
Russell Kyono, Broker / Kauai Commissioner
Laurie Lee, Broker / Honolulu Commissioner
John Love, Public / Honolulu Commissioner
Michael Pang, Broker / Honolulu Commissioner
Aileen Wada, 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
Carole Richelieu, Senior Condominium Specialist
Benedyne Stone, Condominium Specialist
Shari Wong, Deputy Attorney General
Tammy Norton, Recording Secretary

Others: None

Absent: None

Call to Order: The Chair called the meeting to order at 9:02 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.

SEO's Report: **Additional Distribution**

The following material was distributed to the Commissioners prior to the start of the meeting:

4. Program of Work, FY19
 - a. Legislative and Government Participation Report
 - 1) SB 770 / HB 63 Relating to Real Estate Licenses – Requires a high school education or its equivalent as a condition for obtaining a license as a real estate broker or real estate salesperson

Minutes of Previous Meetings

Commissioner Klein noted that she is not mentioned as an active participant in the draft minutes relating to the team discussion. She commented that she was an active participant in the team discussion and raised the issue whether one or two agents would form a team. She was concerned that if a team consisted of one agent, it would place the public at risk of being misled into believing there are a larger group of people working on the transaction.

Upon a motion by Commissioner Ginoza, seconded by Commissioner Lee, it was voted on and unanimously carried to accept the minutes of the February 6, 2019 Laws and Rules Review Committee meeting with the inclusion of Commissioner Klein's comments.

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

SEO Fujitani reported on the status of the following bills:

SB 770 / HB 63 Relating to Real Estate Licenses – Requires a high school education or its equivalent as a condition for obtaining a license as a real estate broker or real estate salesperson

The committee has concerns with Section 3 of the bill which states "This Act shall not apply to licensees who have been duly licensed as a real estate broker or salesperson prior to the effective date of this Act. This Act shall apply to renewal applicants seeking their first license renewal before December 31, 2020, and new applicants who are applying for licensure as a real estate broker or salesperson for the first time on or after the effective date of this Act."

This language would apply to those being licensed now and renewing their license for the first time in the upcoming renewal. It may also interfere with property interest rights.

Commissioner Klein questioned if it is protocol for Commissioners and staff to visit with the Senator to discuss the language of the bill?

SEO Fujitani responded in the affirmative and noted that the bill has already left the Senator's hands, but if the language is kept in the bill, staff will be able to meet with the House members. The Commission will also provide testimony on

any scheduled hearing of the bill. He further commented that the House version of the bill, HB 63 has died.

Commissioner Klein questioned if SB 770 is the only live bill requiring a high school diploma.

SEO Fujitani responded in the affirmative and commented that he is unsure as to why CPC did not hear the House Bill. He also noted that should SB 770 pass out of IAC, he will try to meet with the Chair of CPC to ensure that the bill is heard.

Commissioner Pang commented that the language in the bill may be limited to a small group of people affected prior to 2020, but it will incur a lot of staff time. The initial bill did not include it applying to renewal applicants seeking their first license renewal before December 31, 2020.

Executive Session:

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

HB 76 HD1 Relating to Nonjudicial Foreclosures - Provides an explicit grant of power of sale to condominium associations and planned community associations for the purposes of enforcing association liens under the power of sale procedures in state foreclosure law

HB 76 HD1 has since been deferred. A similar bill relating to condominiums and nonjudicial foreclosures is still alive and moving forward.

HB 347 HD1 Relating to Condominiums – Amends the requirements for a condominium association's standard proxy form by deleting the option for a condominium owner to give the proxy to the board as a whole

Commissioner Klein questioned what harm is caused by the language in the bill.

Commissioner Wada responded that for those associations that have controlling boards, a proxy given to the board as a whole doesn't give dissent.

Licensing Renewal – PVL GEO Report, Current Licenses as of Feb. 8, 2019

A copy of pages 49-51 of the Professional and Vocational Licensing Division's Geographical Report listing the number of current licenses as of February 8, 2019 was distributed for informational purposes. The full report can be viewed at PVL's website at www.cca.hawaii.gov/pvl. The report breaks down the current number of licenses by type and island. The current number of real estate licensees as of February 8, 2019 is 17,877.

It was reported that this past renewal process incurred a lot of problems. The Director's Office recently created a new cashiering system to link all of the divisions by inputting data into one cashiering system. An account is created for each new application received which has created a backlog, causing untimely processing of applications. After one month of dealing with the problems created, the department has decided that a copy of the first page of the application will be made and processed through the cashier's office, and the original will remain with the board for processing. The Director's office in moving to the new system did not consult with the front line, which in the end caused the backlog of application processing, and the employees are still working through the issues.

Another problem which arose was related to the processing of Change Forms which are handled by the Licensing Branch's records section. Real Estate has one records clerk assigned to its board. The real estate clerk, due to Records being short staffed, was on counter duty and unable to process the change forms, which created a large backlog.

SEO Fujitani commented that several years ago the Hawaii Association of REALTORS and the Honolulu Board of REALTORS met with the Commission and volunteered to assist with getting change forms processed timely. The system had gotten better for a while and, although the State can't accept it, the offer for assistance was appreciated.

Commissioner Faulkner questioned if we are able to outsource.

SEO Fujitani responded that the division has had a quick solution by taking the real estate records clerk off of counter duty for 1 week to catch up on the backlog. If the cycle continues, we will run into the same problem and the solutions will have to be re-examined.

There have also been a lot of issues with restorations for those that did not meet the December 31, 2018 renewal deadline. Those restoration applications are also being processed by the one real estate records clerk. There are currently a lot of individuals sitting without a license until their paperwork can be processed.

Chair Arakaki questioned if the online renewal process can be expanded to handle change forms.

The SEO responded that the department is trying to address this with a new licensing system, but it is still in its infancy stage.

Commissioner Lee commented that most change forms require multiple signatures.

Chair Arakaki suggested the acceptance of electronic signatures.

Commissioner Klein suggested using DocuSign which is used by other departments for recording documents. She also asked whether another agency could loan an employee to assist with the backlog.

SEO Fujitani responded that it is a possibility, but currently the position falls under the Licensing Branch and not the Real Estate Branch.

ARELLO, Other
Organizations And
Jurisdictions:

ARELLO Boundaries – February 2019

The following articles from the February 2019 issue of ARELLO Boundaries was distributed for informational purposes: "Regulatory Reform: FTC Report Calls on States to Examine License Portability," "Tech Notes: FAA Floats New Drone Rules," and "HUD Boosts 2019 Loan Limits."

Next Meeting:

Wednesday, April 17, 2019
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 9:41 a.m.

Reviewed and approved by:

Neil K. Fujitani
Supervising Executive Officer

March 11, 2019

Date

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

NF:tn