

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 12, 2020

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
Derrick Yamane, Broker / Interim Honolulu Commissioner

Neil Fujitani, Supervising Executive Officer
Miles Ino, Executive Officer
Diane Choy Fujimura, Senior Real Estate Specialist
Amy Endo, Real Estate Specialist
Nohelani Jackson, Real Estate Specialist
Carole Richelieu, Senior Condominium Specialist
Benedyne Stone, Condominium Specialist
Dathan Choy, Condominium Specialist
Lorie Sides, Condominium Education Specialist
Shari Wong, Deputy Attorney General
Tammy Norton, Recording Secretary

Others: Daryl Nishizawa, Honolulu Board of REALTORS®
Kalama Kim, Honolulu Board of REALTORS®
Bryan Andaya, Abe Lee Seminars

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.

SEO's Report: **Announcements and Introduction**

SEO Fujitani introduced real estate specialist Nohelani Jackson. Ms. Jackson comes from within the Professional and Vocational Licensing (PVL) Division and brings with her a wealth of knowledge of PVL as she has worked with both the Nurses board and PVL's Licensing Branch.

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 8, 2020, Laws and Rules Review Committee meeting as circulated.

Program of Work: **Rulemaking, Chapter 99, HAR, Real Estate Brokers and Salespersons – Proposal to Remove Team Names from Current Draft; Proceed with Previously Agreed to Language Regarding License Numbers**

Executive Officer Ino reported that staff received eleven similar comments during its 60-day comment period for the proposed rules which were discussed at the November 2019 Laws and Rules Review Committee meeting. There were major concerns regarding the proposed rules for advertising and teams. HAR and HBR have both communicated their willingness to meet with the Real Estate Branch staff to find a consensus on the language for both sections. Staff suggests at this time to remove the proposed revisions and new language from the current draft and be replaced by the red-line draft revisions that the Commission and HAR agreed upon in 2018. The current rulemaking process is to accomplish splitting Chapter 99 into 3 separate chapters. The proposed rules could then continue through the rulemaking process, and staff can tackle the issue of advertising and teams in a subsequent rulemaking effort.

Executive Officer Ino was asked how long the process would take if the Commission were to carve out the advertising and teams sections.

Mr. Ino responded with the Legislature in session, review of the rules by the different agencies may take longer than normal. He anticipates completion of the rules by the end of the year.

Upon a motion by Commissioner Pang, seconded by Commissioner Kyono, it was voted on and unanimously carried that the proposed revisions and new language for advertising and teams be removed from the current draft proposed rules for chapter 99 and be replaced by the red-line draft version that the Commission and the Hawaii Association of REALTORS® agreed to in 2018.

Legislative and Government Participation Report – House 2020; Senate 2020

House Bill No. 2164 / Senate Bill No. 2419 Relating to Condominiums – Makes violations of voting requirements for elections of a condominium association subject to the enforcement powers of the Real Estate Commission. REC testimony in opposition of SB 2419 was submitted. The Senate Committee on Commerce, Consumer Protection, and Health deferred the measure indefinitely.

House Bill No. 2195 Relating to Condominiums – Provides that any unit in a development that consists of not more than 2 units and occupied for 1 year by the developer, its successor, or assign as the principal place of residence shall be considered sold for purposes of satisfying a developer's annual report requirement. REC testimony submitted to clarify language within the bill and to remove page 2, line 11, "all units shall be considered sold and not subject to this subsection." "Sold" under part IV of HRS, chapter 514B means a bona fide arm's length transaction.

Commissioner Klein questioned if the developer passes away, does his principal residence become a part of his estate, and if a trust was created, would it then trigger the registration process.

Specialist Richelieu responded that the Commission has already recognized that whomever inherits the property, steps into the shoes of the developer. When whoever inherits the property decides to sell, they would need a developer's public report.

House Bill No. 2324 / Senate Bill No. 2880 Relating to State Service Fees – Applies section 92-28, Hawaii Revised Statutes, to all fees collected by the Department of Commerce and Consumer Affairs. This is a department administration bill to allow all fees collected by DCCA to be increased or decreased with the approval of the Governor instead of by statute or rule. During the most recent association biennial registration, the Commission wanted to decrease the fees by more than 50% but was unable to do so. This bill will give the Commission more autonomy of increasing or decreasing fees.

House Bill No. 2384 / Senate Bill No. 2671 Relating to Real Property Transactions – Requires that mandatory seller disclosures in real estate transactions include identification of residential real properties lying within the sea level rise exposure area as officially designated by the Hawaii Climate Change Mitigation and Adaptation Commission, subject to the availability of county maps designating the areas by tax map key. Effective 1/1/2021. There are currently multiple bills this session that deal with the same or similar issue to require mandatory seller disclosures in real property transactions for residential real properties lying within the sea level rise exposure area.

Commissioners commented that there needs to be some timely mechanism to see which properties would be affected.

SEO Fujitani commented that Friday, February 14, 2020 is the 1st lateral deadline. Staff will disseminate a spreadsheet of bills that have met the deadline to Commissioners. You can then notify staff as to which bills to include on the next agenda for discussion.

Next Meeting: March 11, 2020; 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 9:23 a.m.

Reviewed and approved by:

/s/ Neil K. Fujitani

Neil K. Fujitani
Supervising Executive Officer

February 14, 2020

Date

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