

Real Estate Commission Bulletin



Owner-Builder Permits

Submitted by The Regulated Industries Complaints Office (“RICO”)

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County Codes.

The building permit process. In the simplest of terms, **building codes** exist to ensure buildings meet minimum safety and structural standards. **Building permits** are the way counties and local municipalities ensure buildings are being constructed “to code.” Most homeowners may not give permitting or building codes much thought until an event like a fire or natural disaster occurs. Making sure a structure meets minimum construction standards can be the best way to avoid fire, structural failure, or a child from slipping through balcony railings that are too wide.

When is a building permit required? Each county has its own rules about when a building permit is required. Certain areas, like steep slopes, and certain conditions, like flood zones, may have additional permitting requirements.

State Law.

Licensing law requirements. In the State of Hawaii, a contractor’s license is required for any project where the labor and materials is over \$1,000 and for any project that requires a building permit (regardless of the cost of labor and materials). If the project involves electrical work, a homeowner may also need to hire a licensed electrician. If the project involves plumbing, a homeowner may also need to hire a licensed plumber.

Typically, during the permitting process, an applicant for a building permit must identify the building, electrical, or plumbing contractor who will be responsible for work on the project.

What is an owner-builder? Most homeowners let their contractors handle the permit process. However, the law also allows homeowners *who do the work themselves* to obtain their own permits. A permit obtained by a homeowner who is responsible for the work on the project is sometimes referred to as an “owner-builder” permit. A homeowner with an “owner-builder” permit is treated as the general contractor for the project and, as such, is responsible for ensuring the project meets county building codes, and complies with the permitting process, including having the project inspected by a county building inspector.

In addition to following county requirements, a homeowner with an owner-builder permit must also comply with state laws, including contracting, employment, and tax laws. Under State law, the owner-builder must supervise the construction, is responsible for ensuring any subcontractors working on the project are properly licensed, and is responsible for ensuring work safety standards are met. He or she is also responsible for ensuring the project passes building codes and building inspections, and that the project complies with employment and tax laws for any persons working on project who are not licensed. (For a complete list of requirements, homeowners are encouraged to carefully read Hawaii Revised Statutes chapter 444 and any other laws or rules relating to owner-builders in Hawaii.)

The Chair's Message



Aloha Real Estate Licensees:

I have been licensed since 1977 and an active real estate professional for 40 years. However, until I became a real estate commissioner four years ago, I knew very little about the Hawaii Real Estate Commission ("HIREC") and as I have learned, this is all too common among licensees. So, as the new Chair of the HIREC, I would like to devote my first Chair's Message to some information on the structure, function and workings of the HIREC.

The HIREC is responsible for the licensure, education and discipline of real estate licensees; registration of precense schools, continuing education providers, condominium projects, condominium associations, condominium managing agents, and condominium hotel operators; and certification of precense and continuing education courses, as well as precense instructors.

To carry this out, the HIREC is authorized to: grant licenses to real estate salespersons and brokers; make specific rules to regulate the professional conduct of salespersons and brokers; inspect client trust funds; suspend or revoke licenses; issue certificates of registration to precense schools and continuing education providers; certify precense instructors; fine licensees for violations of the license laws and rules; and register condominiums, condominium hotel operators and condominium managing agents (if not broker-exempt). In addition the HIREC is responsible to administer the real estate recovery fund, real estate education fund, and the condominium education trust fund.

The fundamental mission-objective of the HIREC, that permeates everything it does, is consumer protection, which each Commissioner swears to uphold and, in my experience, takes very seriously.

There are nine Commissioners who serve on the HIREC. Commissioners are nominated by the Governor, confirmed by the Senate and serve four-year terms. Each can serve a second four-year term by the same nomination-and-confirmation process, before reaching the maximum two-term limit. Each four-year term begins July 1st and ends June 30th four years later.

By statute, at least four of the Commissioners must be licensed real estate brokers, two must be public members, four must be from Oahu and one each must be from Maui, Kauai and the Big Island. Commissioners serve as volunteers and are not compensated.

As of June 30, 2018, the terms of Commissioners Nikki Senter (HIREC Chair, public member) and Rowena Cobb (Education Review Committee Chair, Kauai real estate broker) ended. Both were most-valuable members of the Commission who freely contributed expertise and many hours of dedicated service over their eight years as Commissioners. They each deserve much praise and gratitude for their esteemed service. "Ro" and Nikki leave large shoes to fill.

As of July 1, 2018, I began my second four-year term and also became the new HIREC Chair. One of the duties of the HIREC Chair is to appoint the Chairs and Vice Chairs of the three standing committees: Laws and Rules, Education Review and Condominium. Note that all nine Commissioners serve on each Committee.

It is my pleasure to announce the nine current Commissioners and their titles:

Scott Arakaki, Public Member, HIREC Vice Chair, Laws and Rules Review Committee Chair

Laurie Lee, Oahu Broker, Condominium Review Committee Chair

Bruce Faulkner, Maui Broker, Education Review Committee Chair

Sean Ginoza, Big Island Broker, Hilo, Laws and Rules Committee Vice Chair

John Love, Public Member, Condominium Review Committee Vice Chair

Aileen Wada, Oahu Broker, Education Review Committee Vice Chair

Aleta Klein, Oahu Broker

Russell Kyono, Kauai Broker

Michael Pang, Oahu Broker, HIREC Chair

(cont. page 3)

The Chair's Message (cont. from page 2)

The functions and work of the HIREC, its Commissioners and committees, are supported by a staff of knowledgeable and committed employees. In reality, although the Commissioners make most of the key decisions, it is the HIREC staff who should mostly be credited with carrying out the ongoing duties, detailed work and responsibilities entrusted to the HIREC by statute. Commissioners will come and go, but staff remains the steadfast constant in carrying out the mission of the HIREC.

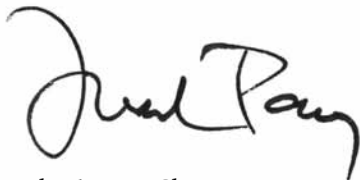
The Commissioners and HIREC staff meet twice each month, usually Committee Meetings the second Wednesday of each month and Commission Meetings the last Friday of each month. Most meetings are held on Oahu, in the Queen Liliuokalani Conference Room in the King Kalakaua Building (First floor, 335 Merchant Street, next to the downtown Post Office). However, once each year, Committee Meetings are held on Kauai, Maui and the Big Island as outreach to licensees and related industries. The agenda for each meeting is publically posted one week prior.

At the Commission Meeting on June 29, 2018, the HIREC approved its Core B continuing education ("CE") class, which immediately became available to approved CE providers.

Please remember that this is a license renewal year and all renewal items (including your 20 hours of CE credit) must be completed and submitted to the HIREC no later than November 30, 2018 to continue your license uninterrupted as of January 1, 2019. Any real estate license not renewed by the HIREC before January 1, 2019 will be deemed forfeited and any licensed activity conducted with a forfeited license is in violation of the rules and subject to sanction by RICO (Regulated Industries Complaints Office).

It is an honor to Chair the HIREC and support its hard-working staff. I fully understand the duties, functions and responsibilities of the position and will do my best to excel at them.

Mahalo.



Michael Pang, Chair

Owner-Builder Permits (cont. from page 1)

Hawaii law also requires owner-builders keep and maintain certain records for up to three years after project completion, including copies of building permits and applications, copies of contracts with the names of all persons who performed work on the project, and proof of payment to employees, subcontractors, and the like.

Restrictions on sale or lease. Hawaii's owner-builder law is designed to give homeowners who want to be their own contractors a way to get a permit. The law is limited to owner-occupants, therefore, when built under the owner-builder exemption, a structure can only be used by the owner-occupant and cannot be made available to the public. A home built with an owner-builder exemption can be sold or leased a year following the final inspection (or verifiable date of completion). An owner-builder can apply to the Contractors License Board for a hardship exemption, such as the need to sell a property because of a divorce.

Penalties for violating State law. The fines for violating State owner-builder laws are steep – homeowners who fail to comply with owner-builder requirements can be fined up to \$5,000 or 50% of the permit value of the work to be performed, whichever is greater. Subsequent violations could result in a \$10,000 fine or 60% of the permit value of the work to be performed, whichever is greater. Homeowners who violate the owner-builder requirements are also prohibited from applying for new owner-builder permits for three years. Real estate licensees who aid an owner-builder in selling a property in violation of the owner-builder law may be subject to discipline by the Hawaii Real Estate Commission.

DAVID Y. IGE
GOVERNOR
DOUGLAS S. CHIN
LIEUTENANT GOVERNOR



CATHERINE P. AWAKUNI COLÓN
DIRECTOR
CELIA C. SUZUKI
LICENSING ADMINISTRATOR

STATE OF HAWAII
REAL ESTATE BRANCH PROFESSIONAL AND
VOCATIONAL LICENSING DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
KING KALAKAUA BUILDING
335 MERCHANT STREET, ROOM 333
HONOLULU, HAWAII 96813
<http://www.hawaii.gov/hirec>

February 2018

REAL ESTATE COMMISSION INFORMATIONAL NOTICE

NEW LICENSE APPLICANTS, LICENSE RENEWAL AND CONTINUING EDUCATION REQUIREMENT

All real estate licenses must be renewed by the renewal application deadline, **November 30, 2018**. All real estate licenses expire at the end of each even-numbered year, regardless of the initial date of licensure. Submission of a complete renewal application, payment of fees, and for active licensees, completion of continuing education courses, are required by the renewal application deadline to ensure the successful renewal of licenses before January 1, 2019. Licenses not successfully renewed will be considered forfeited as of January 1, 2019 and the licensee will not be able to conduct real estate activity or receive compensation.

If you are renewing your license on an active status, you must fulfill the mandatory continuing education requirement **prior** to submitting your renewal application. For a new salesperson licensee with a new license issued in 2018, see below – SALESPERSON APPLICANTS and SALESPERSON LICENSEES. If you are not able to complete the continuing education requirement, your license may be renewed on an inactive status and you may not conduct real estate activity or receive compensation. There is a \$25.00 fee to change from inactive status to active status, in addition to completion of the continuing education requirement.

SALESPERSON APPLICANTS and SALESPERSON LICENSEES:

- If you apply for a new salesperson license before the end of 2018, you will have to pay license fees twice in 2018. In addition to the fees you pay for your new license, you will have to pay renewal fees to renew your license by November 30, 2018. Fees are not prorated and basically cover the cost of processing, reviewing, and decision on the application.
- All salesperson licensees must complete the continuing education requirement prior to the renewal application deadline to successfully renew on an active status, unless you were issued a new salesperson license during calendar year 2018 and renew your license by November 30, 2018. If you were issued a new salesperson license in calendar year 2018 and renew your license by the renewal application deadline, you will be deemed to have completed the equivalent to the continuing education requirement and will not have to complete the continuing education requirement for this license renewal.

- If your new salesperson license application deadline is on or after December 31, 2018 and you do not desire to be licensed as a salesperson in 2018, **and the licensing renewal application period is in effect**, you may submit your complete salesperson license application during the renewal application period and request that your new salesperson license be effective January 1, 2019. Please call for specific information on this procedure. The aforementioned continuing education equivalency will not be applicable if licensed in calendar year 2019.

BROKER APPLICANTS and BROKER LICENSEES:

- All broker applicants and broker licensees must complete the continuing education requirement prior to the renewal application deadline in order to successfully renew their salesperson or broker license on an active status.
- If your broker license application deadline is on or after December 31, 2018, and you do not desire to be licensed as a broker in 2018, **and you received the renewal application for your salesperson license**, you may submit your complete broker license application during the renewal application period (must be received by November 30, 2018) and request that your salesperson license not be renewed and the new broker license be effective January 1, 2019. This procedure does not excuse completion of continuing education requirements for active licensees. Please call for specific information on this procedure.

For more information, please contact our office at 586-2643, or visit our website at www.hawaii.gov/hirec.

**THE LAW DOES NOT PROVIDE FOR: PRORATION OF FEES OR REFUND OR
CREDIT OF FEES PAID; EXTENSION OF TIME TO APPLY FOR LICENSE;
EXTENSION OF TIME TO RENEW A LICENSE.**

This material can be made available for individuals with special needs. Please call the Senior Real Estate Specialist at 586-2643 to submit your request.

Administrative Actions

NOTE: CORRECTION: A Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Commission's Final Order approved on March 23, 2018 and filed on March 27, 2018 contained errors about convictions relating to Michael B. Reece, formerly known as Michael Petersen. Mr. Reece did not have convictions for Criminal Trespass 1 or Contempt of Court.

CORRECTION: In the matter of Scott A. Sherley and Penny T. Sherley, Case Nos. REC-2016-21-L, REC 2016-86-L, and REC 2016-227-L, dated 1/26/18, which appeared in the Administrative Actions of the May 2018 Real Estate Commission Bulletin, "Uncontested Facts" should read "RICO Allegations."

April 2018

ANTHONY BARTLETT
RS 66995

Case No. REC-2017-370-L

Dated 4/27/18

Uncontested Facts:

On or about February 2014, the Respondent was convicted in the State of Hawaii of the crime of Operating a Vehicle Under the Influence of an Intoxicant ("OVUII") or what is commonly referred to in this State as a "DUI" - Driving Under the Influence (hereafter "Conviction"). The Respondent fulfilled all Court-imposed terms and conditions of the Conviction, but, answered "No" to the question on his 2014 renewal application that

asked: "In the past 2 years have you been convicted of a crime in which the conviction has not been annulled or expunged?"

Violations:

HRS § 436B-19(2), HRS § 436B-19(5) and HRS § 467-20.

Sanctions:

Fine of \$750.00.

PHILLIP C. BURCHETT
RS 74228

Case No. REC-2017-367-L

Dated 4/27/18

RICO Allegations:

On or about December 28, 2005, Respondent was convicted of the offense of Operating a Vehicle Under the Influence of an Intoxicant ("OVUII"). The Respondent fulfilled all Court-imposed terms and conditions of the conviction.

On Respondent's Application for License- Real Estate dated January 20, 2012, Respondent answered "no" to question number 2 which asked, "In the past 20 years have you ever been

convicted of a crime where there has not been an order annulling or expunging the conviction?"

Violations:

HRS § 436B-19(2), HRS § 436B-19(5), HRS § 436B-19(14) and HRS § 436B-19(17).

Terms of Settlement:

Voluntary surrender of license.

JARED C. GATES
RS 65973

Case No. REC-2017-413-L

Dated 4/27/18

RICO Allegations:

RICO alleges that on or about April 19, 2005, Respondent answered "yes" in response to the question, "In the past 20 years have you been convicted of a crime that has not been annulled or expunged?" on his initial real estate salesperson application.

In the explanation for the affirmative answer above, Respondent disclosed 1993 convictions of Burglary in the Second Degree and Criminal Property Damage in the Second Degree.

Respondent did not disclose that on or about August 15, 1996, Respondent was criminally convicted in the District Court of the First Circuit, State of Hawaii, of Driving Under the Influence of an Intoxicating Liquor.

On or about December 3, 2008, Respondent electronically submitted a renewal application for his real estate salesperson's license to the Commission.

On the renewal, Respondent answered "no" to question 3, "In the past 2 years have you been

convicted of a crime that has not been annulled or expunged?"

On or about February 12, 2008, in the District Court of the Third Circuit, State of Hawaii, the Respondent was convicted of the criminal offense of Driving Under the Influence of an Intoxicant.

Representations by Respondent:

Respondent represents that he has fully complied with and/or successfully completed the terms of his convictions listed above.

Respondent was not attempting to hide his criminal convictions and the failure to disclose this information arose from honest errors and mistaken belief that the 1996 conviction had been expunged from his record.

Violations:

HRS § 436B-19(2), HRS § 436B-19(5) and HRS § 467-20.

Sanctions:

Fine of \$2,500.00.

(cont. page 7)

Administrative Actions (cont. from page 6)

May 2018

EVAN COLE CLARKE
RS 65748

Case No. REC-2016-214-L

Dated 5/25/18

RICO Allegations:

On February 23, 2010, Respondent was convicted of a petty misdemeanor for Failure to Appear but failed to disclose it when answering the license renewal question that asks for criminal convictions.

On November 5, 2015, Respondent was convicted in Hawaii of the crime of operating a vehicle under the influence of an intoxicant ("OVUII") or what is commonly referred to in this state as

a "DUI" - driving under the influence (hereafter "Conviction"). The Respondent fulfilled all Court-imposed terms and conditions of the Conviction.

Violations:

HRS § 436B-19(2), HRS § 436B-19(5), HRS § 436B-19(14) and HRS § 436B-19(17).

Sanctions:

Fine of \$750.00.

JODI KURAOKA also known as CHARITY J. KURAOKA
RS 68893

Case No. REC-2018-6-L

Dated 5/27/18

RICO Allegations:

From approximately April of 2017 through August of 2017, Respondent engaged in unlicensed real estate broker activities in exchange for compensation when she acted as a property manager for a neighbor's property.

Violations:

HRS § 467-14(5) and HRS § 467-14(6).

Sanctions:

Fine of \$2,000.00.

June 2018

VINH DUC TA
RS 72682

Case No. REC-2018-2-L

Dated 6/29/18

RICO Allegations:

RICO alleges that on or about December 1, 2009, Respondent answered "No" in response to the question, "During the past 20 years have you ever been convicted of a crime where there has not been an order annulling or expunging the conviction?" on his initial real estate salesperson application.

Respondent did not disclose that on or about December 28, 2005, Respondent was criminally convicted in the District Court of the First Circuit, State of Hawaii of Driving Under the Influence of an Intoxicant ("OVUII") or what is commonly referred to in this state as a "DUI"- driving under the influence (hereafter "DUI Conviction"). Respondent fulfilled all Court-imposed terms and conditions of the Conviction.

RICO alleges that on or about December 1, 2009, Respondent answered "No" in response to the question, "Are there any pending law suits, unpaid judgments, outstanding tax obligations, or any other type of involuntary liens against you?" on his initial real estate salesperson application.

Respondent did not disclose that he had a Judgment filed against him in the District Court of the First Circuit on or about June 24, 2009.

On or about November 19, 2012, Respondent electronically submitted a renewal application for his real estate salesperson's license to the Commission.

On the renewal application, Respondent answered "no" to question 3, "In the past 3 years have you been convicted of a crime which has not been annulled or expunged?"

On or about May 12, 2011, in the Family Court of the Third Circuit, State of Hawaii, the Respondent was convicted of the criminal offense of Disorderly Conduct.

Representations by Respondent:

Respondent did not intend to hide his criminal convictions and judgment, and the failure to disclose this information arose from his misunderstanding of the questions.

Violations:

HRS § 436B-19(2), HRS § 436B-19(5) and HRS § 467-20.

Sanctions:

Fine of \$1,750.00.

Administrative Actions (cont. from page 7)

**DERK M. VAN KONYNEN-
BURG and EASTDIL SE-
CURED, LLC**
RB 21715
RB 18350

Case No. REC-2018-275-L

Dated 6/29/18

Statement of Facts:

RICO received a request for investigation of Respondents related to their business address, 1001 Bishop Street, 19th Floor, Honolulu, Hawaii 96813, which is the listed address for Wells Fargo Advisors (a trade name of Wells Fargo Clearing Services, LLC).

On July 14, 2017, RICO investigators interviewed Thomas McCarthy, the Complex Manager for Wells Fargo Advisors. Mr. McCarthy stated that he has been working for Wells Fargo Advisors for eight years at 1001 Bishop Street, 19th Floor, Honolulu, Hawaii 96813 and the entire 19th floor is used only by Wells Fargo Advisors. Mr. McCarthy had never heard of Respondents and neither Respondents had an office on the 19th floor.

By letter dated August 1, 2017, Respondents' attorney informed RICO, inter alia, "Dedicated space at 1001 Bishop Street, 19th floor in Honolulu will be maintained and the Eastdil license will be prominently displayed" and "Mr. Van Konynenburg ... periodically will be Hawaii as well." (sic)

On December 14, 2017, RICO investigators conducted a site inspection of 1001 Bishop Street, 19th floor. One vacant office within Wells Fargo Advisors had a door plate reading "Henry Cassidy Eastdil Secured LLC" and no display of the brokerage firm's license.

By letter dated January 23, 2018, Respondents' counsel informed RICO:

In response to your email of January 16, 2018, be advised that since being designated as the Principal Broker for Eastdil Secured, L.L.C. ("Eastdil") on January 15, 2015, Mr. Van Konynenburg travelled to, and was present in, Hawaii for business on the following dates:

April 3, 2015- April 12, 2015

June 13, 2015 - June 21, 2015

March 25, 2016 - April 3, 2016

June 19, 2016 - June 26, 2016

December, 2016 (we are still searching for exact date of departure) - January 2, 2017

April 8, 2017 - April 15, 2017

May 10, 2017 - May 12, 2017

June 9, 2017 - June 16, 2017

In addition, Mr. Van Konynenburg will be in Hawaii from April 24, 2018 – April 26, 2018.

Violations:

HRS § 467-12, HAR § 16-99-3(m), HAR § 16-99-3(n), HAR § 16-99-3(o) and HAR § 16-99-6.

Sanctions:

Fine of \$15,000.00.

Administrative Actions (cont. from page 8)

CINDY L. VICOY
RS 77818

Case No. REC-2016-40-L

Dated 6/29/18

Real Estate Commission's Proposed Final Order for Non-Compliance with a Settlement Agreement:

On April 21, 2017, the Real Estate Commission ("Commission") adopted a Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Commission's Final Order ("Settlement Agreement") in the above-referenced matter wherein Respondent agreed to:

1. Administrative Fine. Respondent shall pay an administrative fine of FIVE HUNDRED AND NO/100 DOLLARS (\$500.00). The fine is due in full within 30 days of approval or acceptance of this agreement by the Commission. Or Respondent may opt to pay the fine in equal installments of no less than \$25.00, with the first installment due within 30 days of approval or acceptance of this agreement by the Commission and each successive installment due monthly thereafter, on or by the last calendar day of the month, until the fine is paid in full. If Respondent opts to pay in installments, and an installment is not paid on time, then section D(2)'s automatic revocation will apply as if the Respondent failed to pay the entire fine. . . .

Under the terms of the Settlement Agreement, Respondent's license shall be automatically revoked if Respondent fails to comply with the terms of the Settlement Agreement and an attorney from the Regulated Industries Complaints Office ("RICO") files an affidavit with the Board attesting to Respondent's failure.

2. Failure to Comply with the Settlement Agreement. **If Respondent fails to fully and timely comply with the terms of this Settlement Agreement then the license shall be revoked automatically upon RICO's filing of an affidavit with the Commission attesting to Respondent's failure. . . .**

On February 13, 2018, John Hassler, a RICO staff attorney, filed an affidavit attesting that RICO last received a \$25 payment from Respondent on November 2, 2017. Mr. Hassler also attested that Respondent has failed to pay the installment payment which was due on January 31, 2018. RICO requested that the Commission revoke the Respondent's license for her failure to comply with the terms of the Settlement Agreement.

On February 22, 2018, the Executive Officer of the Commission sent a letter to Respondent at her address referred to in the Settlement Agreement, notifying her of the Commission's intention to consider this matter at its meeting on March 23, 2018. The letter also informed Respondent to submit a written explanation by March 9, 2018, if she wished to contest RICO's affidavit. This letter was returned to sender.

On February 27, 2018, the Executive Officer of the Commission sent a letter similar to his first letter to Respondent at her address of record in the Commission's licensing data bank. This letter was returned to sender with a label indicating a P.O. Box address for Respondent.

On March 1, 2018, the Executive Officer of the Commission sent a letter similar to his first letter to Respondent at the P.O. Box address printed on a label pasted on the Commission's returned letter of February 27, 2018.

On March 16, 2018, the Commission's staff received a telephone call from Respondent asking to speak to the Executive Officer regarding the letter she received. While the Executive Officer was busy servicing an applicant at the window, Respondent hung up.

Violations:

HRS § 436B-19(2), HRS § 436B-19(5), HRS § 436B-19(17) and HRS § 467-20.

Order: Revocation of License

Sanctions:

Fine of \$500.00.

New Commissioners



Effective July 1, 2019, the Commission welcomes Russell S. Kyono, Kauai commissioner, and John R. Love, Oahu Public Member. Both terms expire June 30, 2023.

Mr. Kyono is a lifelong resident of Kauai. He attended the University of Hawaii, Manoa, and received a degree from the School of Travel Industry Management. He received his real estate salesperson's license in 1981, and his broker's license in 1991. He is the owner and principal broker of K-ONI, Inc. dba Kauai Rentals & Real Estate, Lihue, Kauai.



Mr. Love is a partner with Cades Schutte LLP, and has been associated with the firm since 2010. He focuses on development of residential, resort, and commercial projects, including condominium projects, commercial leasing, real estate acquisition, sales and financing. He received his Juris Doctor degree from Northwestern University, School of Law, and his undergraduate degree from Yale University.

Duplicate CE Hours

2018 is a renewal year. In anticipation of a much-asked question, here's the answer!

Hawaii Administrative Rules ("HAR") §16-99-95, **Duplicate continuing education hours.** "Except as provided by the commission or by this subchapter, a licensee shall not take a continuing education course for which the licensee has already received a certificate within two consecutive biennia."

Here's the interpretation of the above rule: If a licensee took a course in 2015 (2015-2016 biennium) and wants the course marked as make-up and credited to the 2013-2014 biennium, the biennium in which he first took the course is the marker to determine two consecutive biennia. That biennium marker is the 2015-2016 biennium. The licensee may then take the same course in the 2019-2020 biennia, which is two consecutive biennia from the 2015-2016 biennium.

All continuing education courses may be used for make-up purposes EXCEPT for the commission's core courses. Remember that BOTH part A and part B of the core course for a biennium, must be completed for credit. If only one part is completed, the licensee will NOT receive any core course credit.

Property Management Fees Subject to GET May Not Be Divided by Department of Taxation

The Department would like to remind the public that fees received in exchange for managing rental property may not be divided between real estate agents and subagents. Real estate brokers who receive income for managing rental properties owe general excise tax (GET) at the retail rate of 4% (4.5% on Oahu) on the entirety of such income, regardless of whether they pay a portion of it to any subagents or solicitors.

Generally, under GET Law, an agent receiving income is subject to GET at the retail rate of 4% (4.5% on Oahu) on the full amount of that income. Income that subagents or solicitors receive is also subject to GET. Depending on the facts and circumstances of the specific transaction, it is possible that amounts a general agent pays to subagents or solicitors would be considered wholesale income. See §237-4(a)(10), Hawaii Revised Statutes (HRS), for more information.

Section 237-18(e), HRS, provides a form of tax relief sometimes referred to as an "income-splitting provision," for real estate broker commissions. Commission income that falls under §237-18(e), HRS, is divided between the general real estate agent and subagents or solicitors, and each party pays GET at the 4% (or 4.5% on Oahu) rate on his or her portion, effectively rendering the commission income subject to the GET only once. Income that does not fall under §237-18(e), by contrast, is subject to tax under the general rule described above, i.e., it would be subject to the retail rate of 4% (4.5% on Oahu), owed entirely by the general agent. The portions the general agent then pays to his or her subagents or solicitors would be subject to tax a second time (though possibly as wholesale income under §237-4(a)(10), HRS).

The income-splitting provision under §237-18(e) applies only to real estate sales commissions. It does not apply to rental management fees a real estate broker collects in exchange for managing rental property, nor does it apply to any other type of non-commission income. For more information, please contact the Rules Office at (808) 587-1530.

Prelicense Schools

Abe Lee Seminars	808-942-4472
Akahi Real Estate Network, LLC	808-331-2008
All Islands Real Estate School	808-564-5170
American Dream Real Estate School, LLC	720-322-5470
Scott Alan Bly School of Real Estate, LLC dba Bly School of Real Estate	808-738-8818
Carol Ball School of Real Estate	808-871-8807
CE Shop, Inc.	888-827-0777
Coldwell Banker Pacific Properties Real Estate School	808-551-6961
Continuing Ed Express, LLC	866-415-8521
Digital Learning Centers, LLC dba REMI School of Real Estate	808-230-8200
Inet Realty	808-955-7653
Maui Real Estate Academy, LLC dba Hawaii Real Estate Academy	808-431-1218
OnCourse Learning Corporation dba OnCourse Learning Real Estate	800-532-7649
Ralph Foulger's School of Real Estate	808-239-8881
Savio Realty, Ltd. dba Savio Real Estate Academy	808-943-7300
Seiler School of Real Estate	808-874-3100
Vitousek Real Estate Schools, Inc.	808-946-0505



State of Hawaii Real Estate Commission

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Continuing Education Providers

Abe Lee Seminars	808-942-4472	Ho'akea LLC dba Ku'iwalu	808-539-3580
All Islands Real Estate School	808-564-5170	Honolulu Board of Realtors	808-732-3000
American Dream Real Estate School, LLC	720-322-5470	Institute of Real Estate Management Hawaii Chapter #34 (IREM)	808-384-2801
Asentiv Hawaii	808-960-9630	International Association of Certified Home Inspectors (InterNACHI)	303-225-9149
At Your Pace Online, LLC	877-724-6150	International Council of Shopping Centers, Inc.	646-728-3800
The Berman Education Company, LLC	808-572-0853	Kauai Board of Realtors	808-245-4049
Scott Alan Bly School of Real Estate, LLC dba Bly School of Real Estate	808-738-8818	McKissock, LLC	800-328-2008
Building Industry Association of Hawaii	808-629-7505	Shari S. Motoooka-Higa	808-492-7820
Carol Ball School of Real Estate	808-871-8807	OnCourse Learning Corporation dba OnCourse Learning Real Estate	800-532-7649
The CE Shop, Inc.	888-827-0777	Preferred Systems, Inc.	888-455-7437
CMPS Institute, LLC	888-608-9800	Ralph Foulger's School of Real Estate	808-239-8881
Coldwell Banker Pacific Properties Real Estate School	808-551-6961	Realtors' Association of Maui, Inc.	808-873-8585
Continuing Ed Express, LLC	866-415-8521	REMI School of Real Estate	808-230-8200
Council of Residential Specialist, The Dexterity CE, LLC	800-462-8841	Russ Goode Seminars	808-597-1111
The Council of Residential Specialists	800-462-8841	Servpro Industries Inc.*	615-451-0200
Eddie Flores Real Estate Continuing Education	808-951-9888	USA Homeownership Foundation, Inc., dba Veterans Association of Real Estate Professionals (VAREP)	951-444-7363
Hawaii Association of Realtors	808-733-7060	Vitousek Real Estate Schools, Inc.	808-946-0505
Hawaii Business Training	808-250-2384	West Hawaii Association of Realtors	808-329-4874
Hawaii CCIM Chapter	808-528-2246		
Hawaii First Realty, LLC	808-282-8051		
Hawaii Island Realtors	808-935-0827		

State of Hawaii
Real Estate Commission
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2018 Real Estate Commission Meeting Schedule

Laws & Rules Review Committee – 9:00 a.m.

**Condominium Review Committee – Upon adjournment of the Laws & Rules
Review Committee Meeting**

Education Review Committee – Upon adjournment of the Condominium

Review Committee Meeting

Wednesday, August 8, 2018

***Wednesday, September 12, 2018**

Wednesday, October 10, 2018

Wednesday, November 14, 2018

Wednesday, December 12, 2018

Real Estate Commission – 9:00 a.m.

Friday, August 24, 2018

Friday, September 21, 2018

Friday, October 26, 2018

Friday, November 21, 2018

Friday, December 21, 2018

All meetings will be held in the Queen Liliuokalani Conference Room of the King Kalakaua Building, 335 Merchant Street, First Floor.

*The committee meetings will be held at the Grove Farm Building Conference Room, 3-1850 Kaunualii Highway, Lihue, Kauai.

Meeting dates, locations and times are subject to change without notice. Please visit the Commission's website at www.hawaii.gov/hirec or call the Real Estate Commission Office at (808) 586-2643 to confirm the dates, times and locations of the meetings. This material can be made available to individuals with special needs. Please contact the Executive Officer at (808) 586-2643 to submit your request.