

Minutes



Standard Forms Committee Meeting
Thursday, January 21, 2016
HawaiiUSA Federal Credit Union Community Room

The Standard Forms Committee (“SFC”) meeting for the HAWAII ASSOCIATION OF REALTORS® was held on Thursday, January 21, 2016 at the HawaiiUSA Federal Credit Union Community Room. The meeting was called to order at 9:12 a.m. by Chair Kalama Kim.

Chair Kalama Kim; Eric Yama; Bridget Arrastia; Beth Daily; Diane Fujikami; Frank Goodale; Patti Ichida; Liz Moore; Joyce Murphy; Roy Sakamoto; Dusty Woodstock. Staff Liaison: Ethel Keyes. Guests: Nancy Donahue-Jones; Nathan Aipa.

A motion was adopted to approve the minutes of October 22, 2015.

Nathan Aipa presented basic rules and guidelines for the SFC to follow. This will assist the committee to streamline the forms review and meeting process. The SFC was also informed of the Work Made for Hire Agreement created by Seth Reiss, an attorney specializing in intellectual property rights and copyright. The SFC was asked to sign the Confidentiality, Conflict of Interest, and Work Made for Hire Agreements. Since there are subcommittee members who are not on the SFC, it was requested to have a Confidentiality Agreement revised for subcommittee use.

1. Forms for May 2016 release

Chair Kim informed the SFC that so far three forms will be in the May release.

- RR104 – Buyer Representation Contract (Exclusive Right To Represent)
- RR105b – Request for Documents
- RR404 – Referral Fee Contract

2. Request to create a Rental Application Form

Chair Kim informed the SFC that the Executive Committee approved the SFC’s request to create a Rental Application Form. The Property Management Subcommittee headed by Dusty Woodstock was tasked to begin work on this form.

3. Subcommittees’ Progress Reports

- a. RR105c – Project Information Form – *Condo...*: A draft has been submitted and is on the agenda for the SFC to review.
- b. RR108 – Receipt of Project Information Form: No change recommended. The subcommittee was asked to review this form to decide whether it should be eliminated or merged with the Document Receipt.
- c. RR221 – Dual Agency Consent Addendum: The subcommittee had a productive meeting last week. Another meeting is scheduled for 2/4. The subcommittee was asked to have a draft ready for the 2/18/16 SFC meeting.
- d. RR401 – Independent Contractor: Roy reported that an email blast was sent to all Maui REALTORS® and received only 1 reply. He also touched base with the person from the Department of Labor for feedback on our form but has not received any response.
- e. RR201 – Purchase Contract: Kalama reported that the subcommittee will be tackling Section I next week.

4. New Assignments

CALL TO ORDER

ATTENDEES

MINUTES

SFC PROCEDURES AND GUIDELINES; WORK MADE FOR HIRE

UPDATES

Chair Kim assigned additional forms to committee members.

- a. RR204 – Counter Offer – Roy**/Eric
- b. RR202 – Early Occupancy Agreement - Diane**/Beth/Patti
- c. RR210 – Residential Leasehold Property Addendum – Liz**
- d. RR211 - Receipt for Residential Leasehold Property – Liz**
- e. RR212 – Action on Residential Leasehold Property Disclosure – Liz**
- f. RR303 – Option Addendum – Frank**/Lori
- g. RR110 – Short Sale Addendum to Exclusive Right-to-Sell Listing Contract – Kalama**
- h. RR111 – Distressed Property Addendum to Exclusive Right-to-Sell Listing Contract - Kalama**
- i. RR222 – Distressed Property Addendum to Purchase Contract – Kalama**
- j. RR223 – Short Sale Addendum to Purchase Contract – Kalama**
- k. RR226 – Document Receipt – Joyce**/Liz/Patti

Chair Kim and Ethel will create a grid including deadline for assignments, when forms will be targeted to submit to membership form comments and when we anticipate these forms to be forwarded to the Executive Committee.

**Subcommittee chair

- 1. RR214 – Cooperating Brokerage Firm’s Separate Contract

UNFINISHED/NEW BUSINESS

Comments from membership were reviewed and revisions were made.

A motion was adopted to add: “[] Cooperating Brokerage Firm is a corporation and is not subject to backup withholding tax; therefore, the W-9 will not be provided.”

NOTE: This appears after the first check box under #6.

A motion was adopted to recommend to the Executive Committee that the RR214 – Cooperating Brokerage Firm’s Separate Contract be approved.

NOTE: If approved, this form will be in the May 2016 release.

- 2. RR101 – Exclusive Right to Sell Listing Contract

The SFC continued to review the subcommittee’s draft.

A motion was adopted to add (f) and (g) as revised and separated under A-8.

(f) If Seller enters into an option agreement with a Buyer, Seller agrees to pay one-half of the option consideration. However, Seller will not pay more than what would have been Brokerage Firm’s full commission. Seller will pay the balance of the commission, if any, and any agreed upon general excise tax when the option is exercised, even if it occurs after the expiration of the Listing Contract.

(g) If any defaulting Buyer’s deposits are forfeited, Brokerage Firm is entitled to one-half of such deposit, not to exceed what would have been Brokerage Firm’s full commission.

A motion was defeated to revise D-3 to read: “Lock Box. Seller agrees to permit and will obtain and provide agent written permission from any tenant to install a lock box or electronic key device on the Property to allow for showings and inspections. 1 in favor, 7 opposed.

A motion was adopted to revise D-3 to read: “Lock Box. Seller agrees to permit and will obtain written permission from any tenant to install a lock box or electronic key device on the Property to allow for showings and inspections.”

A motion was adopted to approve D-6 as revised. “Offers. Seller agrees to consider all offers presented by Brokerage Firm and to

act in good faith to sell the Property. Seller shall also agree to respond in writing to any offers presented by Brokerage Firm, indicating acceptance, rejection or preparing a counter offer.”

A motion was adopted to approve D-14 as revised. “Costs. Seller shall pay the following, including but not limited to (i) Agreed upon commission to Brokerage Firm per A-8 above: (ii) Customary closing costs: (iii) Costs of Homeowner Association and cost of all documentation as required by Section 508D of the Hawaii Revised Statutes: (iv) Costs involved with termite or survey matters or (v) Any other fees or costs that Seller is obligated to or agrees to be responsible for in the Purchase Contract: (vi) Legal fees.”

A motion was adopted to approve Section D.

A motion was adopted to approve Section E.

A motion was adopted to make the signature section at the end of the form consistent by adding title and authorized representative.

A motion was adopted to approve revisions made to the RR101 – Exclusive Right-to-Sell Listing Contract and to publish this draft for membership comments.

3. NEW FORM – Property Management Contract

Dusty Woodstock introduced the draft. She mentioned that the subcommittee used the Exclusive Right-to-Sell Listing Contract as a template to create this form. The subcommittee also reviewed other brokerage firm’s Property Management Agreements.

The SFC began its review of the subcommittee’s draft and made revisions.

A motion was adopted to create a clause to authorize one representative at the end of the form and have Nathan work on this verbiage during this meeting. The SFC will discuss this verbiage when it gets to that point on the form.

A motion was adopted to forward this form back to the subcommittee to reorganize the sub sections to be consistent with the Exclusive Right-to-Sell Listing Contract and also take into consideration verbiage for the clause to authorize one representative created by legal counsel.

There being no further business, the meeting was adjourned at 3:50 p.m.

ADJOURNMENT

Ethel Keyes
Manager of Member Services