

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: Friday, July 30, 2010

Time: 1:00 p.m.

Place: Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, Hawaii

Present: Trudy Nishihara, Chair, Broker/Honolulu Commissioner
Stanley Kuriyama, Vice Chair, Broker/Honolulu Commissioner
Frances Gendrano, Broker/Honolulu Commissioner
Walter Harvey, Broker/Honolulu Commissioner
Michele Sunahara Loudermilk, Public/Honolulu Commissioner
Scott A. Sherley, Broker/Hawaii Island Commissioner

Neil K. Fujitani, Supervising Executive Officer
Jon Ellis M. Pangilinan, Executive Officer
Diane Choy Fujimura, Senior Real Estate Specialist
Cynthia Yee, Senior Condominium Specialist
Amy Endo, Real Estate Specialist
David J. Grupen, Real Estate Specialist
Cheryl Leong, Condominium Specialist
Benedyne Stone, Condominium Specialist
Shari Wong, Deputy Attorney General
Karyn Takahashi, Recording Secretary

Others: Brian Kim, Esq.
David Azbill
Ailana Molina
Lynn Murison
Suzanne King, Honolulu Board of REALTORS®
Jo Ann Uchida, CEO, Regulated Industries Complaints Office
Lei Fukumura, Special Deputy Attorney General

Absent: Carol Ball, Broker/Maui Commissioner
Mark Suiso, Public/Honolulu Commissioner

Call to Order: The Chair called the meeting to order at 1:01 p.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 Suiso and Ball were excused from the meeting. Prior notification of their non-attendance was received.

Executive Officer's Report: The Supervising Executive Officer (SEO) informed the Commissioners that the original applications with any original associated documents to be considered at the meeting were available for review.

Announcements, Introductions, Correspondence and Additional Distribution

The following was distributed as additional distribution:

6. Licensing – Applications
 - c. Jon B. Breese
 - d. David W. Azbill, Jr.

Minutes of Previous Meeting

Upon a motion by Commissioner Sherley, seconded by Commissioner Gendrano, it was voted on and unanimously carried to accept the minutes of the June 24, 2010 meeting.

Committees and
Program of Work:

Laws and Rules Review Committee – Program of Work FY11 – Commissioners' Education Program

Ms. JoAnn Uchida, Complaints Enforcement Officer, Regulated Industries Complaints Office (RICO), was present to give a brief explanation of RICO's duties and functions.

RICO has approximately 65 employees with offices in Hilo, Kona, Maui, Kauai and Oahu. RICO is the enforcement arm of over 45 professional boards, commissions and programs and they also administer the State Certified Arbitration Program ("lemon law"). RICO receives, investigates and prosecutes possible license violations, including unlicensed activity.

A complaint begins at the Consumer Resource Center (CRC), their intake branch. If the intake investigator determines there is cause to investigate a possible licensing violation, the complaint is referred to RICO's other enforcement branches for further investigation or prosecution. RICO successfully resolves 40% of complaints at the intake level.

It was reported that there were approximately 2,000 complaints filed last fiscal year, with approximately 325 involving real estate, which included condominium and time share issues.

If a case is referred for further investigation, RICO field investigators conduct interviews, obtain relevant documents and consult with experts to determine if there is sufficient evidence of one or more violations to warrant legal action. If there is sufficient evidence of a violation to warrant legal action, the case is then referred to RICO's legal branch for prosecution by RICO staff attorneys. If, during the course of the investigation, it is determined that legal action is not warranted, the complaint is closed at the field investigations level.

Cases referred to the legal branch are evaluated by RICO's staff attorneys for possible legal action. In general, legal actions are either filed as board disciplinary actions (where the violation involves a person or entity that hold a license), or filed at state circuit court (where the violation involves unlicensed activity).

When asked about the most glaring type of real estate related complaints, Ms. Uchida responded that they seem to be in the area of condominium management (i.e. assessments) and time share management (i.e. how the time share is being managed). RICO has concerns about property management cases and cases involving client trust accounts.

When asked about the time frame of an investigation, Ms. Uchida stated that cases are prioritized and the investigative benchmark is that the investigation take no longer than 18 months; however, cases may take longer if they are going through the legal process. She noted that real estate cases tend to be document intensive, and RICO treats cases involving client trust and/or security monies with high priority.

When queried about fines/sanctions, Ms. Uchida stated that there is a range of fines RICO can assess, up to a maximum of \$5,000—seriousness of the violation, willfulness, consumer harm, size of transaction, previous violations, etc. are all taken into consideration.

Ms. Uchida commented on the online prior complaints history system and reported that complaints that do not include legal action remain posted to the public for five years after issuance of a disposition. At this time, cases involving legal action remain posted to the public indefinitely; however, they are contemplating removing them from the public database five years after compliance. Cases that are resolved or closed at the intake level are excluded from the report.

Ms. Uchida was informed that the Commission might, at times, disapprove settlement agreements due to inconsistency and the fact that the allegations may sound serious and the sanction may seem out of line, as well as some not noting allegations. Ms. Uchida replied that the information in the settlement agreement usually contains only the facts that are not contested and could be agreed upon by the parties. RICO tries to include as much relevant information as possible, and the Commission should have sufficient information to make a decision. At minimum the rule/law being violated is cited and some factual background is included. She added there are some variables that would not be appropriate to include in the settlement agreement. She stated that they will work on being more standardized and clearer on the rationale behind the settlement agreements to help the Commission make their decisions.

When queried if RICO would consider conducting random real estate audits, Ms. Uchida stated that currently, they do not have the luxury of time, staff or expertise to conduct random audits; however, they are open to the idea. She noted that her staff is trying to build expertise in the area of real estate, but at this time, they do not have anyone with the background to do an audit.

Chair Nishihara thanked Ms. Uchida on behalf of the Commission for being present and providing the Commission with lots of valuable information.

Licensing –
Ratification:

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Gendrano, it was voted on and unanimously carried to ratify the attached list.

Licensing –
Applications:

The Supervising Executive Officer informed the Commissioners that the information provided to the Commissioners is related only to the issue that is before the Commission for consideration. The other materials submitted are available for the Commissioners review should they desire to review it. If the applicants have an issue, which is personal in nature, they have the right to request that their application be considered in executive session.

Ailana J. Molina

Ms. Molina was asked if she wished to have her application for real estate salesperson's license considered in executive session. She declined the offer.

Ms. Molina stated that there were mitigating circumstances for each offense she reported on her application. She stated that since those incidents, she has had no contact with the legal system.

Ms. Molina stated that she has applied for a job as a leasing agent for Certified Management and went for two interviews. She disclosed her circumstances and noted that her application was pending and Certified Management has asked her to contact them as soon as she finds out the outcome of her application status.

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Gendrano, it was voted on and unanimously carried to take this matter under advisement.

David W. Azbill, Jr.

Mr. Azbill was asked if he wished to have his application for real estate salesperson's license considered in executive session. He accepted the offer.

Executive Session:

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Sherley, it was voted on and unanimously carried to enter into executive session, pursuant to section 92-5(a)(1), HRS, "To consider and evaluate personal information, relating to individuals applying for professional or vocational licenses cited in section 26-9 or both;" and 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 Kuriyama, seconded by Commissioner Gendrano, it was voted on and unanimously carried to move out of executive session.

Licensing
Applications:

David W. Azbill, Jr.

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Harvey, it was voted on and unanimously carried to take this matter under advisement.

Steven P. De Los Reyes

Commissioner Kuriyama moved to accept Steven P. De Los Reyes' request for reconsideration. Commissioner Gendrano seconded the motion. The motion was voted on and unanimously carried.

Mr. De Los Reyes was not present; however, his representative, Brian Kim, Esq., was present on his behalf. Mr. Kim was asked if he wished to have this matter considered in executive session. Mr. Kim declined the offer.

Mr. Kim stated that he wanted to make it clear to the Commission that in Mr. De Los Reyes' case money was received, but the money was accounted for. As soon as Mr. De Los Reyes was contacted by the California Department of Real Estate (CADRE) regarding the money, he moved the money from his general account to the trust account. The money was just deposited into the wrong account. He noted that the money was a consulting fee and not for a third party. He emphasized that at no time was the money not accounted for.

Mr. Kim admitted that the money was in the general account and commingled. The CADRE came in quickly—they saw Mr. De Los Reyes' ad and they audited him. The CADRE knew the monies were there and advised Mr. De Los Reyes to move the money. They understood it was a mistake, thus did not focus on the loan modification issues, but rather focused on the trust fund issues in their investigation.

When queried about the satisfaction of the terms of the stipulation, Mr. Kim responded that Mr. De Los Reyes is currently in California and scheduled to take the exam in early August. Everything is on pace, he has not yet received an invoice for the fees owed, and Mr. De Los Reyes is in the process of scheduling his required courses.

Mr. Kim stated that Mr. De Los Reyes has a brother-in-law in Maui and that he is currently in California and still has companies in California.

Mr. Kim stated that Mr. De Los Reyes is willing to come to a compromise with the Commission to demonstrate that he is a professional and will take his profession seriously. He asked the Commission to give Mr. De Los Reyes a chance to prove himself.

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Loudermilk, it was voted on and unanimously carried to take this matter under advisement.

Chapter 91, HRS,
Adjudicatory
Matters:

The Chair called for a recess from the meeting at 2:05 p.m., to discuss and deliberate on the following adjudicatory matters, pursuant to Chapter 91, HRS:

**In the Matter of the Real Estate Broker's License of Peter D. Osborne;
REC 2006-114-L**

Upon a motion by Commissioner Sherley, seconded by Commissioner Loudermilk, it was voted on and unanimously carried to accept the Settlement Agreement.

In the Matter of the Real Estate License of Nathalie C. Mullinix, a Real Estate Broker; REC 2009-94-L

Upon a motion by Commissioner Loudermilk, seconded by Commissioner Sherley, it was voted on and unanimously carried to accept the Settlement Agreement.

Following the Commission's review, deliberation, and decisions in these matters, pursuant to Chapter 91, HRS, the chair announced that the Commission was reconvening its scheduled meeting at 2:10 p.m.

Executive Session:

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Gendrano, it was voted on and unanimously carried to enter into executive session, pursuant to section 92-5(a)(1), HRS, "To consider and evaluate personal information, relating to individuals applying for professional or vocational licenses cited in section 26-9 or both;" and 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 Kuriyama, seconded by Commissioner Gendrano, it was voted on and unanimously carried to move out of executive session.

Licensing
Applications:

Fred E. Redling

After review of the information presented by the applicant, Commissioner Harvey moved to approve the real estate salesperson's license of Fred E. Redling. Commissioner Gendrano seconded the motion. The motion was voted on and unanimously carried.

Ailana J. Molina

After review of the information presented by the applicant, Commissioner Harvey moved to approve the real estate salesperson's license of Ailana J. Molina. Commissioner Gendrano. The motion was voted on and unanimously carried.

Jon B. Breese

After review of the information presented by the applicant, Commissioner Harvey moved to approve the real estate salesperson's license of Jon B. Breese. Commissioner Kuriyama seconded the motion. The motion was voted on and unanimously carried.

David W. Azbill

After review of the information presented by the applicant, Commissioner Harvey moved to approve the real estate salesperson's license of David W. Azbill, Jr., with conditions. Commissioner Sherley seconded the motion. The motion was voted on and unanimously carried.

Steven P. De Los Reyes

After review of the information presented, Commissioner Kuriyama moved to affirm the denial of the real estate broker's license of Steven P. De Los Reyes based on sections 467-8, 436B-19(1), 436B-19(8) and 436B-19(12), Hawaii Revised Statutes, and upon proof of compliance of all conditions required by Steven P. De Los Reyes' stipulation and agreement with the California Department of Real Estate, and provided he satisfies all application requirements, he may apply for a Hawaii real estate salesperson license. Commissioner Gendrano seconded the motion. The motion was voted on and unanimously carried.

Stephen R. Brown

Commissioner Kuriyama moved to deny Stephen R. Brown's request to use his examination results taken for restoration to be used towards his salesperson application based on Hawaii Revised Statutes section 467-11(d). Commissioner Loudermilk seconded the motion. The motion was voted on and unanimously carried.

Next Meeting: Thursday, August 26, 2010
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 11:12 a.m.

Reviewed and approved by:

/s/ Neil K. Fujitani
Neil K. Fujitani
Supervising Executive Officer

August 16, 2010
Date

[x] Approved as circulated.
[] Approved with corrections; see minutes of _____ meeting.

APPROVED APPLICATIONS FOR REAL ESTATE
 REAL ESTATE COMMISSION MEETING ON JULY 30, 2010

<u>Brokers – Limited Liability Companies and Partnerships</u>	<u>Effective Date</u>
Joseph D. Pluta Realty L.L.C. Joseph D. Pluta, PB	06/07/10
Paradise Houses LLC Stephen Ozimec, PB	06/08/10
Disney Vacation Club Hawaii management Company, LLC Marty King, PB	06/09/10
Pacific ocean Realty, LLC Sophia Anne Yuni, PB	06/21/10
Real Life Hawaii Limited Liability Company Larry Hinkel, PB	06/23/10
Oahu Land Company LLC Tara O. Meichtry, PB	07/02/10

<u>Brokers – Corporations and Partnerships</u>	<u>Effective Date</u>
Poipu365 Inc. Vicki Agor, PB	06/08/10
Disney Vacation Development, Inc. David Weiss, PB	06/09/10
Indigo Real Estate Services, Inc. Scott C. Tanner, PB	06/10/10
Entrada Management Services, Incorporated Justin Schuman, PB	06/14/10
Essex House Condominium Corporation, Kauai Marriott Resort & Beach Club Katherine A. Lewi, PB	06/14/10
SD County Realty, Inc., Pacific Shores Realty Keith Zielinski, PB	06/16/10
Premiere Realty Inc. Stephen J. Tsuha, PB	07/09/10

<u>Brokers – Sole Proprietor</u>	<u>Effective Date</u>
Francisco T. Bautista, Bautista Properties	06/16/10

<u>Limited Liability Companies and Partnerships Name</u>	<u>Effective Date</u>
Kainoa Properties, LLC (fka Somerset Realty LLC)	06/16/10

<u>Trade Name</u>	<u>Effective Date</u>
West Hawaii Property Services, Inc., Kona Rentals	06/10/10

<u>Equivalency to Uniform Section of Examination Certificate</u>	<u>Expiration Date</u>
Josefina Lo Typoco	06/09/12
Michael Joseph O'Meara	06/14/12
Benjamin James Garner	06/14/12
Ted Peter Melikian	06/14/12
Eve Findling	06/16/12
Anthony Joseph Tatad	06/17/12
William Sherman Linder	06/17/12
Jonathan David Gilbert	06/17/12

<u>Equivalency to Uniform Section of Examination Certificate</u>	<u>Expiration Date</u>
Crystal Gayle Suzuki	06/17/12
Harry W. Champ	06/22/12
John Harold Miller	06/22/12
Eric Lane Moses	06/22/12
Kathleen Ann Rodriguez	06/22/12
William Dornin Schoettle	06/23/12
Olaf Andrew Medhus	06/28/12
Walter Monroe Coffey	06/28/12
Steven Bush Dahl	06/28/12
Rob S. Hemingway	06/28/12
Linda Gibson Duncan	07/06/12
Exerine Laura Cantin	07/07/12
Christopher Eustace Crocker	07/09/12
Martino Anthony Piazzola	07/13/12
Stephen Edward Hawkins	07/13/12
Susan Mary Sippel	07/13/12
Marcela Burboa	07/13/12
Rick Thai Tran	07/14/12
Cynthia J. Regli	07/14/12
Monica Bejarano-Goodnight	07/19/12
Catherine Ann Felkins	07/20/12

<u>Educational Equivalency Certificate</u>	<u>Expiration Date</u>
Josefina Lo Typoco	06/09/12
Sarah Ann Hunt	06/15/12
Michael Joseph O'Meara	06/14/12
Benjamin James Garner	06/14/12
Ted Peter Melikian	06/14/12
Eve Findling	06/16/12
Anthony Joseph Tatad	06/17/12
William Sherman Linder	06/17/12
Jonathan David Gilbert	06/17/12
Crystal Gayle Suzuki	06/17/12
Harry W. Champ	06/22/12
John Harold Miller	06/22/12
Eric Lane Moses	06/22/12
Kathleen Ann Rodriguez	06/22/12
William Dornin Schoettle	06/23/12
Erin Elisabeth Wilde	06/23/12
Brian Andrew Schoettler	06/23/12
Olaf Andrew Medhus	06/28/12
Walter Monroe Coffey	06/28/12
James Lytle Gilmore	06/28/12
Rob S. Hemingway	06/28/12
Linda Gibson Duncan	07/06/12
Exerine Laura Cantin	07/07/12
Christopher Eustace Crocker	07/09/12
Martino Anthony Piazzola	07/13/12
Susan Mary Sippel	07/13/12
Ryan Kent Markham	07/14/12
Rick Thai Tran	07/14/12
Cynthia J. Regli	07/14/12
Monica Bejarano-Goodnight	07/19/12

Catherine Ann Felkins

07/20/12

Real Estate Broker Experience Certificate

Expiration Date

Frida Rangel Adams	06/08/12
Christina Mei Loon Low	06/08/12
Rosemary Smith	06/08/12
Sean S. Ginoza	06/14/12
Mihaela Stoops	06/14/12
Michael Joseph O'Meara	06/14/12
Andy Toan Chen	06/16/12
William Sherman Linder	06/17/12
William C. Parecki	06/17/12
Denis Fuster	06/17/12
Doug K. Wong	06/21/12
Gail Halava	06/21/12
Harry W. Champ	06/22/12
Eric Lane Moses	06/22/12
Orin Kanaena Sherman	06/22/12
Donald Wilson Dietz, Jr.	06/22/12
William Dornin Schoettle	06/23/12
Aki Nakano	06/29/12
Rob S. Hemingway	06/28/12
Renona K. Barrozo	07/06/12
Christopher Eustace Crocker	07/09/12
Marcela Burboa	07/13/12

Real Estate Broker (upgrade)

Effective Date

Jim Noel	06/04/10
Karen Mayer	06/10/10
Scott C. Tanner	06/10/10
Ransom E. Ryman II	06/14/10
Mary L. Lussier	06/21/10
Laura Pope	06/21/10
Beth Thoma Robinson	06/21/10
Elisi Buen Lazo	06/21/10
Ken Gines	06/22/10
Darryl Macha	06/22/10
Norman A. Banta	06/24/10
Julie A. Meier	06/28/10
Samantha Kate Haas	07/07/10
Petronilo J. Pineda, III	07/19/10