

**REAL ESTATE COMMISSION**  
Professional and Vocational Licensing Division  
Department of Commerce and Consumer Affairs  
State of Hawaii  
[www.hawaii.gov/hirec](http://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, August 26, 2011

Time: 9:00 a.m.

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

Present: Carol Ball, Chair, Broker/Maui Commissioner  
Stanley Kuriyama, Vice Chair, Broker/Honolulu Commissioner  
Rowena Cobb, Broker/Kauai Commissioner  
Walter Harvey, Broker/Honolulu Commissioner  
Michele Sunahara Loudermilk, Public/Honolulu Commissioner  
Nikki T. Senter, Public/Honolulu Commissioner  
Scott A. Sherley, Broker/Hawaii Island Commissioner  
Aileen Wada, Broker/Honolulu Commissioner

Neil K. Fujitani, Supervising 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  
Amy Fujioka, Office Assistant

Others: Lei Fukumura, Special Deputy Attorney General  
David Spohr  
Phillip Li, Esq.  
Beate Arnopole  
Ken Arnopole  
Larry G. Whaley  
Ethan Okura  
Steven Dixon

Absent: Frances Gendrano, Broker/Honolulu Commissioner

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.

Supervising 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.

#### **Addition to Agenda**

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Sherley, it was voted on and unanimously carried to add the following to the agenda:

4. Committees and Program of Work
  - c. Education Review Committee – Continuing Education Administration, Curriculum, Courses, Providers, and Instructors – Course Content Administration

#### **Minutes of Previous Meeting**

Upon a motion by Commissioner Harvey, seconded by Commissioner Sherley, it was voted on and unanimously carried to accept the minutes of the July 29, 2011, meeting as distributed.

Committees and Program of Work:

#### **Laws and Rules Review Committee**

##### Program of Work FY12 – Licensing, Registration, and Certification Administration

Specialist Stone reported that Hotel Management Services LLC, a registered condominium hotel operator ("CHO") has submitted a Certificate of Liability Insurance to satisfy the fidelity bond requirement for CHOs in an amount that exceeds the statutory requirement, with a deductible amount higher than the rule requirement.

At issue is whether the fidelity bond in a maximum amount larger than that required by Hawaii Revised Statutes section 467-30(b)(2) can be accepted and whether the deductible amount larger than that allowed by Hawaii Administrative Rules section 16-99-148(c) can be accepted.

Specialist Stone reported that in January and February of this year, the Condominium Review Committee ("CRC") addressed a similar issue of a condominium association fidelity bond in an amount larger than that provided for statutorily.

The issue before the Commission is similar to the issue addressed earlier this year by the CRC, in that the statute provides a maximum, which limits the Commission's authority to require a higher amount of fidelity bond, but does not prevent the Commission from accepting a higher amount or limit the association's discretion to purchase a higher amount to satisfy its business needs, consistent with the intent of the statute. It was noted that the statutory language is similar and the Commission would avoid appearing to second-guess a CHO's business judgment decisions by allowing the CHO to determine its own

insurance needs by purchasing the amount of insurance protection it determines is necessary for its business purposes. The deductible is governed by an administrative rule specifying the maximum amount and does not appear to give the Commission discretion in deviating from the maximum amount; in addition, there is no precedent for the Commission accepting a larger deductible amount.

Commissioner Loudermilk questioned the rationale behind the recommendation. Specialist Stone stated that the argument would be that the Commission cannot require, but it does not preclude the CHO from purchasing a higher than required fidelity bond.

Commissioner Kuriyama stated that it seems that a higher face amount on the bond is a benefit; however, a higher deductible is adverse.

Commissioner Kuriyama moved to accept the CHO fidelity bond amount of Hotel Management Services LLC, which is in an amount larger than that required by statute. In addition, deny the fidelity bond deductible, based upon administrative rule's maximum deductible amounts in Hawaii Administrative Rules section 16-99-148(c). Commissioner Sherley seconded the motion. Commissioners Ball, Kuriyama, Cobb, Harvey, Senter, Sherley and Wada voted aye. Commissioner Loudermilk voted nay. The motion passed.

**Delegation to Staff:** Commissioner Kuriyama moved to, in future cases, give Staff the authority to accept CHO fidelity bonds in an amount larger than that required by statute. In addition, Staff is given the discretion, in the future, to determine acceptable deductible bond amounts, consistent with this decision and the administrative rule. Commissioner Sherley seconded the motion. Commissioners Ball, Kuriyama, Cobb, Harvey, Senter, Sherley and Wada voted aye. Commissioner Loudermilk voted nay. The motion passed.

#### **Education Review Committee**

Continuing Education Administration, Curriculum, Courses, Providers, and Instructors – Applications – Charfen Institute dba Distressed Property Institute, LLC; Ms. Nicole King Administrator

Upon a motion by Commissioner Harvey, seconded by Commissioner Loudermilk, it was voted on and unanimously carried to approve Charfen Institute dba Distressed Property Institute, LLC as a continuing education provider.

Continuing Education Administration, Curriculum, Courses, Providers, and Instructors – Continuing Education Core Course

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

Licensing –  
Ratification:

Upon a motion by Commissioner Loudermilk, seconded by Commissioner Sherley, 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.

### **Larry Gene Whaley**

Mr. Whaley was present with Mr. Steven Dixon. Mr. Whaley was asked if he wished to have his application for real estate salesperson license considered in executive session. He declined the offer.

Mr. Whaley stated that the year 2000 is a year he wishes to forget. He stated he's been employed with Wyndham for ten years and has recently moved to Hawaii to be Wyndham's Director of Sales.

Mr. Whaley stated that in September 2000 his real estate office burned down and his insurance only covered half of what was owed on the mortgage. He filed for bankruptcy. He stated further that everyone that was owed money was paid.

Mr. Whaley stated that he has been in Hawaii for four months and this incident occurred ten years ago. He stated that he is an honest person and he has moved his family here and wants to live in Hawaii for a long time.

Mr. Whaley was questioned why he answered no to the application question "Have any complaints or charges ever been filed against you, regardless of outcome, with the licensing agency of any state?" He replied that he did not understand the question. He was not trying to hide anything, in fact, he had Tennessee send all the records. Mr. Whaley added that his Tennessee license is currently active.

Mr. Whaley was questioned if he did not know that his Tennessee license was revoked. He responded that he did not remember that his license had been revoked.

It was brought to Mr. Whaley's attention that he stated his business burned down in September 2000; however, the Tennessee commission audited him in July 2000. Mr. Whaley stated that the Tennessee noted an escrow shortage. He explained that the dispute was over a transaction of a personal piece of property—monies were given to him and not put in a trust account and the Tennessee commission felt that the monies should have been placed in a trust account.

Mr. Whaley stated that his bankruptcy was dismissed and he paid everyone.

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

### **David Bryan Spohr**

Mr. Spohr was asked if he wished to have his request for preliminary decision considered in executive session. He accepted the offer.

#### **Executive Session:**

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Loudermilk, 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 Loudermilk, seconded by Commissioner Cobb, it was voted on and unanimously carried to move out of executive session.

Licensing –  
Applications:

**David Bryan Spohr**

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

**Ethan R. Okura**

Mr. Okura was asked if he wished to have his request for preliminary decision considered in executive session. He declined the offer.

Mr. Okura stated that he was present to address any of the Commissioners' questions.

After review of the information presented by the applicant, Commissioner Harvey moved to most likely approve the real estate salesperson license of Ethan R. Okura. Commissioner Loudermilk seconded the motion. The motion was voted on and unanimously carried.

Chapter 91, HRS,  
Adjudicatory  
Matters:

The Chair called for a recess from the meeting at 9:41 a.m., to discuss and deliberate on the following adjudicatory matters, pursuant to Chapter 91, HRS:

**In the Matter of the Petition of Beate Arnopole, an individual, for Declaratory Relief**

Ms. Beate Arnopole and Mr. Ken Arnopole were present and were being represented by Phillip Li, Esq.

Commissioner Harvey moved to deny the petition for declaratory relief based on sections 16-201-50(1)(E) and (F), Hawaii Administrative Rules. Commissioner Sherley seconded the motion. Commissioners Ball, Harvey, Sherley, Senter, Cobb, and Wada voted aye. Commissioners Kuriyama and Loudermilk voted nay. The motion passed.

**In the Matter of the Real Estate License of Paula F. Myers, a Real Estate Salesperson**

Commissioner Wada recused herself from discussion and voting on this matter.

Upon a motion by Commissioner Kuriyama, 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 John T. Baessler, a Real Estate Salesperson**

Upon a motion by Commissioner Harvey, seconded by Commissioner Sherley, it was voted on and unanimously carried to accept the settlement agreement.

**In the Matter of the Petition of SVO Pacific, Inc., for Declaratory Relief**

Commissioner Senter recused herself from discussion and voting on this matter.

Commissioner Kuriyama moved to grant the petition for declaratory relief and to refer the petition to the Hearings Officer. Commissioner Harvey seconded the motion. The motion was voted on and unanimously carried.

**In the Matter of Sharon Chen, Candidate for Salesperson License Examination**

Upon a motion by Commissioner Loudermilk, seconded by Commissioner Harvey, it was voted on and unanimously carried to approve the final order.

**In the Matter of the Real Estate Broker's Licenses of Waianae Coast Realty, Inc. and Richard C. Cayer; REC 2009-363-L**

Commissioner Harvey recused himself from discussion and voting on this matter.

Commissioner Kuriyama moved to adopt the Hearings Officer's Findings of Fact and Conclusions of Law and issue a proposed final order. Commissioner Sherley seconded the motion. The motion was voted on and unanimously carried.

**In the Matter of the Real Estate Salesperson's License of Jeff R. Carmichael; REC 2009-219-L**

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Harvey, it was voted on and unanimously carried to approve the final order.

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 10:19 a.m.

**Executive Session:**

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Loudermilk, 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 Sherley, seconded by Commissioner Harvey, it was voted on and unanimously carried to move out of executive session.

Committees and  
Program of Work:

**Education Review Committee**

Continuing Education Administration, Curriculum, Courses, Providers, and Instructors – Continuing Education Core Course

Commissioner Loudermilk moved to reject David Catanzaro's, Digital Learning Centers' request, made by his letter dated July 28, 2011, and settlement offer by Lissa Andrews, his attorney at that time, in her letter dated July 29, 2011, and to terminate the contract effective June 8, 2011, the date Mr. Catanzaro was advised to cease work on the contract. Commissioner Wada seconded the motion. The motion was voted on and unanimously carried.

Licensing  
Applications:

**Larry Gene Whaley**

After review of the information presented by the applicant, Commissioner Sherley moved to approve the real estate salesperson license of Larry Gene Whaley. Commissioner Loudermilk seconded the motion. The motion was voted on and unanimously carried.

**Michael P. Swam**

Commissioner Loudermilk moved to defer decision making on this application per the request of the applicant. Commissioner Sherley seconded the motion. The motion was voted on and unanimously carried.

**David Bryan Spohr**

After review of the information presented by the applicant, Commissioner Sherley moved to most likely deny the real estate salesperson license of David Bryan Spohr. Commissioner Harvey seconded the motion. The motion was voted on and unanimously carried.

**Gregory Gines, LLC, Oahu Realty Group**

After review of the information presented by the applicant, Commissioner Loudermilk moved to approve the real estate limited liability company license of Gregory Gines, LLC, Oahu Realty Group. Commissioner Sherley seconded the motion. The motion was voted on and unanimously carried.

**Stephen H. Kelly**

After review of the information presented by the applicant, Commissioner Loudermilk moved to accept Stephen H. Kelly's Real Estate Development Certificate from the Urban Land Institute as an "Other professional designation or certificate" and grant him a precicensing education equivalency. Commissioner Harvey seconded the motion. The motion was voted on and unanimously carried.

Executive Session:

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

Next Meeting: Friday, September 23, 2011  
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 11:05 a.m.

Reviewed and approved by:

/s/ Neil K. Fujitani

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Neil K. Fujitani  
Supervising Executive Officer

\_\_\_\_\_  
September 13, 2011  
Date

[ X ] Approved as circulated.  
[ ] Approved with corrections; see minutes of \_\_\_\_\_ meeting.

APPROVED APPLICATIONS FOR REAL ESTATE  
REAL ESTATE COMMISSION MEETING ON AUGUST 26, 2011

<u>Brokers – Limited Liability Companies and Partnerships</u>	<u>Effective Date</u>
Veltri Realty, LLC John M. Veltri, PB	7/05/11
Universal Sites, LLC William H. Munekata, PB	7/12/11
Hoku Realty, LLC Larry Lee Wright, PB	8/03/11

  

<u>Brokers – Sole Proprietor</u>	<u>Effective Date</u>
Karen N. W. Meyer	06/03/11
Edwin S. Ohta	06/17/11
Christina T. Hulihee	06/17/11
Gary E. Ashikawa	06/22/11
Walt Berhalter	06/23/11
James M Kohara	06/28/11
Allyson Stebbins, Wise Move Realty	07/08/11
Jeanie Park, Jeanie Park Realty	07/11/11
Mitchell R. King, King Rentals	07/12/11
Sunny VerMaas, Maui Paradise Properties	07/13/11
Rebecca L. Tillery, Tillery Realty	07/25/11
Richard F. Pachon, Oahu International Realty	08/01/11
John G. Arthun	07/18/11

  

<u>Branch Office</u>	<u>Effective Date</u>
I Properties LLC Victoria M. Isagawa, PB	06/13/11

  

<u>Equivalency to Uniform Section of Examination Certificate</u>	<u>Expiration Date</u>
Angela Suzanne Courtney	7/20/13
Nanalee Burks	7/21/13
Patrick Martin Keulen	7/21/13
Robyn Denise Kelly	7/21/13
Lori Jean Adragna	7/21/13
Joann Beverly Jordan	7/21/13
Dinka Dimitrova Bojanova	7/21/13
Anil Neil Raj	7/21/13
Victoria L. Schnur	7/21/13
Jack P. Wade	7/25/13
Dale Erwin Richardson	8/05/13
Tricia L. Bautista	8/05/13
Joseph Francis Murphy Jr.	8/05/13
Joseph Alexander Takacs, Jr.	8/05/13
Konstantin G. Hristov	8/05/13
Cheryl Christine Smith	8/05/13
Bryan William Cox	8/05/13
Deryck Curtis Wahl	8/15/13

  

<u>Educational Equivalency Certificate</u>	<u>Expiration Date</u>
Angela Suzanne Courtney	7/20/13
Nanalee Burks	7/21/13
Patrick Martin Keulen	7/21/13
Robyn Denise Kelly	7/21/13

Educational Equivalency Certificate

	<u>Expiration Date</u>
Lori Jean Adragna	7/21/13
Joann Beverly Jordan	7/21/13
Dinka Dimitrova Bojanova	7/21/13
Anil Neil Raj	7/21/13
Yuko Hirano Wada	7/21/13
Victoria L. Schnur	7/21/13
Jack P. Wade	7/25/13
Dale Erwin Richardson	8/05/13
Ashley Keola Colter	8/05/13
Matthew Latimer Brock	8/05/13
Daniel Bos	8/05/13
Tricia L. Bautista	8/05/13
Joseph Francis Murphy Jr.	8/05/13
Joseph Alexander Takacs, Jr.	8/05/13
James Gapuzan Lorenzo	8/05/13
Konstantin G. Hristov	8/05/13
Smith, Cheryl Christine	8/05/13
Cox, Bryan William	8/05/13
Okura, Ethan R.	8/05/13
Gary G. Grimmer	8/12/13
Deryck Curtis Wahl	8/15/13

Real Estate Broker Experience Certificate

	<u>Expiration Date</u>
Nanalee Burks	7/21/13
Patrick Martin Keulen	7/21/13
Joann Beverly Jordan	7/21/13
Dinka Dimitrova Bojanova	7/21/13
Victoria L. Schnur	7/21/13
Jane Jovellanos Mireles	7/22/13
Linda Kay Hamp	7/25/13
Dale Erwin Richardson	8/05/13
Joseph Francis Murphy Jr.	8/05/13
Joseph Alexander Takacs, Jr.	8/05/13
Madeline Vida Allen	8/05/13
Eun Jae Chung	8/05/13
Flora Nalani Simeona	8/05/13
Lee Matthew Guitang	8/05/13
Deryck Curtis Wahl	8/15/13

Real Estate Broker (upgrade)

	<u>Effective Date</u>
James M. Kohara	06/28/11
Jae H. Kim	07/06/11
Mitchell R. King	07/12/11
John G. Arthun	07/18/11
Linda Y. Urner	07/25/11
Kurt E. Myers	07/26/11
Charles M. Carr	07/25/11
Robert E. Wills	07/26/11
Herbert L. Grosswendt	08/09/11
Loren Elizabeth Clive	08/11/11