

Minutes of the Meeting
of the
REAL ESTATE LICENSE COMMISSION
OF THE TERRITORY OF HAWAII

December 11, 1956, at the offices of the Commission, Rooms 109 and 121,
Honolulu Armory, Honolulu, Hawaii.

Present: Eaton H. Magoon, Chairman
Hirotoshi Yamamoto, Member
Aaron M. Chaney, Member
Robt E. Bekeart, Executive Secretary

A regular meeting of the Real Estate License Commission of the Territory of Hawaii was called to order by Chairman Magoon at 9:30 a.m., in the Commission's offices, Rooms 109 and 121, Honolulu Armory, corner of Hotel and Miller Streets, Honolulu, Hawaii. The order of business and actions taken were as follows:

ORDER OF BUSINESS

Action on Minutes of
Previous Meeting

The minutes of the meeting held on October 8, 1956 were circulated to the members prior to the meeting. There being no objections, the minutes will be filed as a permanent record of the Commission.

Interim Appointment of Aaron M. Chaney
AS Commission Member, Replacing
John K. Clarke, Jr.

A warm greeting of welcome was extended to the newly appointed Commission member, Mr. Aaron M. Chaney, an interim appointee commencing November 9, 1956 and expiring December 31, 1957. Mr. Chaney replaces Mr. John K. Clarke, Jr., whose appointment was unconfirmed by the Senate at the Special Session of the Legislature held in September 1956.

Reinstatement Requests from Salesmen

The following reinstatement requests were reported to have received tentative approval by the Executive Secretary, subject to an official approval of the Commission. It was reported that a routine investigation revealed no derogatory reports against them.

1. India G. Johnson
2. Henry H. Lowe
3. Reginald H. Fujimoto
4. Ralph U. Fukumitsu

It was moved by Mr. Yamamoto, seconded by Mr. Chaney, and un-animously carried that official approval be granted for reinstatement of the above licenses.

Reinstatement Request of Salesman's
License by John R. Phillips

Information on the questionable conduct of John R. Phillips was presented to the members for review in considering Mr. Phillips' request for reinstatement.

The Commission deliberated quite some time whether the above information provided sufficient grounds to refuse a license. It was held that based solely on the information from a contributing agency, it was insufficient to withhold his license unless he has been convicted of a felony or misdemeanor involving moral turpitude, as provided in Chapter 150, Revised Laws of Hawaii.

A motion was made by Mr. Magoon, seconded by Mr. Yamamoto, and unanimously carried that the Executive Secretary personally interview Mr. Phillips and at his discretion approve such reinstatement, if warranted, and report his action to the Commission. Chairman Magoon suggested that as a precautionary measure it might be advisable not to mention to Mr. Phillips the source of this information but, instead, guide Mr. Phillips to volunteer his side of the story.

Partnership Application -
Marian Tsue & Winifred Lee, Realtors

The tentative approval given by the Executive Secretary on October 23, 1956 to the above application for a co-partnership license to operate as Marian Tsue & Winifred Lee, Realtors, was given official sanction as recommended.

Application to Operate Under
Fictitious Trade Names

A motion made by Mr. Yamamoto, duly seconded by Mr. Magoon, and unanimously carried, that official approval be granted to the following applications to operate under duly registered fictitious trade names. The Executive Secretary has previously granted them tentative approval after determining that all requirements of this office were fully met.

- (a) Patrick Mr. Murphy dba Canadian Pacific Realty
828 Keeaumoku Street, Honolulu, Hawaii
- (b) Julio de Guzman dba Wahiawa Realty Company
154 Mango Street, Wahiawa, Oahu

Routine Administrative Duties

The Executive Secretary, in his desire to streamline the exercising of administrative duties of this Commission, inquired if the members were desirous of being apprised of all routine business, similar to the above nature, for its official approval at every meeting. Executive Secretary feels the members' valuable time should be taken up largely with policy-making duties, planning and endeavoring to raise the standards of the real estate profession and reviewing and acting upon controversial matters brought before its attention for a decision and settlement.

The members were unanimous in their thinking that as a protection for the Executive Secretary, as well as for the Commission, all routine business should continue to be included in the agenda for official action as heretofore done. It was unanimously decided that this matter be set aside for definite action at a later date when Mr. Chaney has had more opportunity to familiarize himself with the duties of this Commission.

Commission Financial ReportSpecial Fund - S-2524

The Commission's financial status was approved as presented:

	\$26,654.37	Balance as of 10/31/56
-	1,842.90	Office expenditures for November
-	<u>1,191.82</u>	Pay Roll services for November
	\$23,619.65	
	<u>3,005.00</u>	Collections for November
	<u>\$26,624.65</u>	Balance as of 11/30/56

On October 30, 1956, the Auditing Department has debited our Special Fund in the sum of \$10,000.00 to be transferred to the Salary Increase Fund which was created by Act 2, SSL 1956. The above balance of 11/30/56 is after the deduction of \$10,000.00 has been made.

Mr. Magoon and Mr. Yamamoto took a firm stand at this time that as long as the Commission does not assent to making further appropriations into the Salary Increase Fund, our Special Fund will not be tapped. The question of a mandate by the Legislature might mean an obligatory duty for this Commission to comply was brought up by Mr. Chaney. There might also be a possibility that this advanced appropriation may be refunded in the future and it may be advisable to give this matter further study.

The Biennium Budget Estimates for 1957-1959 as required by the Bureau of the Budget was approved unanimously by the members (see copy attached herewith)

FHA Advertising - Opinion Rendered
by Attorney General's Office

According to a recent opinion rendered by the Attorney General's Office, there may be a possibility of existing technical violations of Section 709 of Title 18 of the United States Code, by the free usage of statements such as "FHA subdivision", "FHA approved", "FHA accepted", and "FHA financing available" by licensees in their advertising. The opinion states: ".....that the use of statements, provided they are true, will not constitute a violation of Section 709 of Title 18, United States Code. On the other hand, the use of untrue statements would be criminal." It seems there is a complete lack of cases dealing with violations of the quoted statute, therefore, that office does not have the advantage of precedent judicial opinion. The actual violation of the law depends, of course, on the facts of the case. (see opinion in Attorney General's file)

The Executive Secretary stated that obviously some brokers in the industry are not aware of this Federal statute. Chairman Magoon and Mr. Chaney suggested that as an educational measure, this would be an ideal subject to include in our future house organ. Mr. Yamamoto qualified his expression by stating that this Housing Act falls within the jurisdiction of the Federal Housing Administration and, therefore, that body alone is legally empowered to enforce this statute.

Cases for Commission's Review
and General Progress Reports

- (a) Case of Lucille Audrey Schermerhorn, an inactive saleswoman - This office learned through the Honolulu Advertiser dated 11/27/56 that Miss Lucille A. Schermerhorn, identified in our files as an inactive saleswoman, was accused of participating in a plot to bilk Radio Station KPOA out of \$30,000 in contest prize money and was indicted on 11/26/56 on a charge of using the mails to defraud. U.S. Postal Inspector Elmer L. Jacobsen and Postal Investigator Harold F. T. Lee have been in touch with this office (see newspaper clippings in Schermerhorn's files)

The Executive Secretary informed the members that this Commission is particularly interested in the area where Miss Schermerhorn admitted in a preliminary investigation that "she went to Hilo to get a signature on a real estate deal." The progress of the case in the courts will be followed and reported to the Commission. This action was unanimously approved by the members.

- (b) Case of Kenneth W. Ing, Broker - The background information on this case was reviewed for the Commission's decision on clarifying the technicality of establishing bona fide legal residence of Mr. Ing, a broker of long standing with this Commission. According to the trend of events, there seems to exist a strong possibility that Mr. Ing may fall within the category of a new applicant and thereby be subject to meet all the requirements under Chapter 150, Revised Laws of Hawaii, as amended 1953, unless he can provide conclusive evidence to prove the fact

that he has never given up his Territorial residence.

Mr. Ing left the Territory in March 1956 to go to Florence, Alabama. A letter dated July 19, 1956 from Mr. Ing stated that it was his intention to become a resident of Florence, Alabama. As an applicant for a broker's license in Alabama, he could not hold a current broker's license from another state while applying for an Alabama State Real Estate broker's license. Miss Mary J. Thompson, Executive Secretary, Alabama Real Estate Commission, confirmed the fact that Mr. Ing was licensed as a resident of Alabama, and even had renewed his 1957 broker's license. On October 12, 1956, Mr. Ing applied for reactivation of his Territorial broker's license. On November 1, 1956, Broker License No. 2555, was issued to Mr. Ing with certain contingencies attached:

1. A review of the entire incident
2. An opinion from the Department of the Attorney General on the legality of the Commission's action to reissue a broker's license
3. Final approval of the above action and the official decision of the Real Estate License Commission.

The Executive Secretary has discussed this case with Mr. Richard K. Sharpless of the Attorney General's office, who has advised this Commission to proceed with caution in a situation of this nature. On the presumption that Mr. Ing has lost his Territorial residence, the Commission must then treat him as a new applicant.

On the facts as presented, both Chairman Magoon and Mr. Yamamoto maintained that Mr. Ing has not lost his Territorial residence and are satisfied in restoring him full status as a licensed broker. Chairman Magoon stated that until it is proven by judicial procedure that Mr. Ing has lost his residence, this Commission cannot deny him a license at this time. Mr. Chaney suggested that the Executive Secretary put in as much time as he thinks is worthwhile with the Attorney General's office and report back their opinion to the Commission at the next meeting.

The Executive Secretary requested that he be allowed to check once more with that office, and if he is satisfied with the findings, he would then request that the Commission direct him to remove all contingencies attached to Broker License No. 2555. Request was granted.

- (c) Progress Report on Phyllis J. Favors versus Philip W. Won, Broker - On the progress of this pending case, the members were apprised that the basic dispute existing between Mr. & Mrs. Favors, Mr. Philip W. Won and Dr. Wong is subject to further continuance in order to fully determine the legal rights

between the parties. The Executive Secretary's recommendation to grant further extension on the case was unanimously approved.

- (d) Case of Thailia Comer, Broker - Mrs. Comer was cautioned in the past that she cannot hold herself out as possessing an honorary degree of L.L.D. when actually holding a Juris Doctor's degree. In the 1957 telephone directory of the Hawaiian Telephone Company, page 208, yellow classified section, Mrs. Comer is again holding herself out as possessing an honorary degree of L.L.D.

The Executive Secretary was advised to check with both the Blackstone School of Law, Chicago, Illinois, and the local bar association to verify Mrs. Comer's educational background and honorary awards, if any.

- (e) Shinsuke Nishiguchi vs. Jimmy Lovell & Associates - The Executive Secretary reported that this case is presently under investigation and the findings will be presented to the Commission as soon as the facts are determined.

NALLO Convention Reports

Chairman Magoon directed the Executive Secretary to proceed with filing of the following travel reports due from both Chairman Magoon and Executive Secretary, who represented this Commission at the 1956 NALLO Convention in St. Louis, Missouri.

- (a) Statement of Travel Completed
- (b) Report of Travel to Governor King

Progress Report on Candidates Who Passed Examination but Did not Pick up Licenses

The members unanimously approved the Executive Secretary's action in contacting 27 candidates who passed the examination but to date have not paid for their licenses. Some of these pending applications date as far back as 1952.

Progress Report on 1957 Renewals

The members were apprised that three notices have already been mailed to all brokers as reminders on the renewal fees due for 1957. The response to our notices have been excellent to date.

Examination Conducted August 4, 1956

At the last Commission meeting, the test papers of the following broker applicants were reviewed by the members and recommended for reconsideration. For the record, the Executive Secretary announced that he conducted a written examination on October 12, and 22, 1956, and the following brokers were qualified as brokers:

1. William M. Cox
2. Patrick Murphy
3. William H. K. Lum
4. Kenneth Kawazoe
5. D. C. Ching
6. Oscar M. Nishihira
7. Isamu Inoshita
8. Laura L. Thompson

The action of the Executive Secretary was so moved by Mr. Chaney, seconded by Mr. Yamamoto, and unanimously carried.

Report on Examination Conducted 10/27/56

(a) Results of Salesman Examination were reported as follows:

54	Passed (attained 75% and above on exam. and forms)
<u>108</u>	Failed
162	Total Applicants

As in the past practice, the results of the examination were identified with numbers and no names of the applicants were divulged to the members. For the record, the attached list shows the proper identification of the applicants who passed and those who failed.

The members unanimously approved of the results of the salesman examination as presented.

(b) Results of Broker Examination were reported as follows:

6	Passed (attained 85% and above on exam. and 75% on forms)
<u>50</u>	Failed
56	Total Applicants

See attached list of applicants who qualified and did not qualify.

At this time the Executive Secretary requested the permission of the members to allow him some time to give an over-all study of the examinations just conducted so that he may be able to come up with some recommendations at the next meeting, particularly on the results of the broker examination. A motion was made by Mr. Magoon, seconded by Mr. Yamamoto, and unanimously carried that Executive Secretary's request be granted.

(c) Neighboring Islands' Applicants - It was reported that Mr. Yamamoto conducted the examination on the Island of Kauai to the following:

1. William A. Akana
2. Louis T. Self
3. Naomi M. Thomas
4. Julia S. Wernicke

There was one applicant from the Island of Hawaii. The help of the Civil Service Department in Hilo was enlisted to conduct

an examination to Mr. James K. Noda.

(d) Interviews Conducted with Applicants of Questionable Residence

The following applicants for salesman licenses were interviewed to determine whether they qualified as residents of the Territory. Everyone qualified, except Thelma Pfeifer who promised to furnish further evidence to substantiate her claim that she is a resident:

1. Bernice Jean Ditto
2. Rufo Hermano Ganir
3. Kathleen S. Hernandez
4. Sachiko T. Inouye
5. Kenneth Raymond Kelly
6. E. Paul Simpson
7. Robert E. Wade
8. Ross Fitzjohn
9. Ruth A. Johnson
10. Lucy Kastenbein
11. Thelma Pfeifer*

(e) Applicants Found To Have Either Credit or Police Records

As routinely done, applicants with unfavorable records of either a police or credit reports against them were personally interviewed by the Executive Secretary. The following were allowed to take the examination, subject to further qualifying under our law. Results of the examination showed that none of them passed the examination:

1. Charles N. Boggs
2. Robert M. Green
3. Herbert W. Souza
4. Mauro Madolera
5. Harry Y. H. Kim

(f) Falsification on Application for License

Salesman applicants, Francis Y. Kong and Josephine Soonie Clayan, were interviewed for not divulging their police record in answering Question No. 8 on their application forms. They were denied from taking the October 27 examination but were extended permission to file an amended application to take the next examination.

The action taken by the Executive Secretary was unanimously approved.

Requests from Applicants Who Failed
To Be Allowed To Review Test Papers

The Commission has been receiving repeated telephone calls from applicants requesting that they be given an opportunity to review their test papers. Some expression of the members' reaction in handling this situation was requested for guidance. Commissioner Chaney was all in favor of improving better public relations with the general public, and he had no objection to allowing applicants an opportunity to review their test papers. Commissioner Yamamoto raised the point that such a practice would be taking too much of the Executive Secretary's time whereas such time could be put to better use. Chairman Magoon would like to leave this matter entirely up to the Executive Secretary's discretion.

Tentative Date of Next Examination

The tentative date for the next examination was recommended as:

Date of Examination:	March 9, 1957
Deadline for Filing:	February 8, 1957

The dates as suggested were unanimously approved by the members.

1957 Work Schedule for Commission

The Executive Secretary presented to each member a tentative rough Work Schedule planned for this Commission for 1957 to apprise them of the activities, projects and vacation and military leaves due the personnel of this office. The members were requested to give some study and thought on the Work Schedule and offer any suggestions or comments for improvement.

Adjournment of Meeting

There being no further business to discuss, the meeting was adjourned at 11:50 a.m.

Respectfully submitted,



Robt E. Bekeart
Executive Secretary

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