

SUMMARY OF PROCEEDINGS
EIGHTH MEETING OF 1960
REAL ESTATE LICENSE COMMISSION
DEPT OF TREASURY AND REGULATION
STATE OF HAWAII
205 Empire Bldg., Honolulu 13, Hawaii

August 22, 1960

Chairman AARON M. CHANEY called the meeting to order at 1:00 p.m., Monday, August 22, 1960 at the office of the Commission, 205 Empire Building, Honolulu 13, Hawaii.

Present were: Aaron M. Chaney, Chairman
Dorothy S. Ahrens, Member
James C. Ching, Member
Charles C. Cross, Member
Yukio Kashiwa, Member
Erling P. Wick, Member
Hirotoshi Yamamoto, Member
Robt E. Bekeart, Executive Secretary
Dick H. Okaji, Investigator
Hannah Furuta, Recording Secretary

ORDER OF BUSINESS

MINUTES OF PREVIOUS MEETING

Mr. CHING moved, seconded by Mrs. AHRENS, that the minutes of the July 19, 1960 be approved as circulated. Passed unanimously.

FISCAL REPORT

It was moved by Mr. CROSS, seconded by Mr. YAMAMOTO, and unanimously carried that the fiscal report for the month of July 1960 be accepted.

CONFIRMATION OF BROKERAGE LICENSES ISSUED

Mr. YAMAMOTO moved, seconded by Mrs. AHRENS, and motion carried unanimously that the following brokerage licenses issued under tentative approval by EXECUTIVE SECRETARY be recorded as officially approved, as follows:

- a. HOME INVESTMENT COMPANY., LTD - Edward L. Clissold, Prin Bkr
- b. EUGENE F. KENNEDY REAL ESTATE, INC. - Eugene Kennedy, Prin Bkr
- c. Mack Y. Kamikawa dba 1415 REALTY COMPANY
- d. John E. Mack dba SUBURBAN REALTY

CALIFORNIA LAND MANAGEMENT, INC.

EXECUTIVE SECRETARY reported that no action had been taken by staff on this application for brokerage license due to the unusual name of the corporation. After a brief discussion it was the concensus of opinion among the membership that there was no objection to the name of the applicant as such. Mr. YAMAMOTO moved, seconded by Mr. CROSS that CALIFORNIA LAND MANAGEMENT, INC., having paid the required fees and submitted the proper application, be granted a brokerage license. Motion carried.

August 22, 1960

Page two

CONFIRMATION OF JULY EXAMINATION RESULTS

Chairman AARON M. CHANEY reported to the members the staff's action of notifying all candidates of their performance in the July salesman and broker examinations after receiving telephone approval from Honolulu members, as follows:

263 salesmen, or 51% of candidates taking examination, made a passing grade

56 brokers, or 52% of broker applicants, met the requirements in the written examination

It was also reported that under the review directed by Commission at the August 19, 1960 meeting to re-check broker papers for the March examination upon decision to disqualify question No. 17, eight more brokers were deemed qualified and so notified.

Mrs. AHRENS moved, seconded by Mr. CHING, that the above staff actions be officially approved and confirmed. Motion carried.

A. D. CASTRO & COMPANY, LTD FOSTER VILLAGE BRANCH OFFICE OPERATION

EXECUTIVE SECRETARY read to the membership the report of the Investigator of the findings of his investigation of the Foster Village branch office operations of the above corporation, which report is made a part of these minutes. It was disclosed that this real estate office is located in a "rural protected" zoned area and therefore in violation of the City zoning ordinance. Upon conferring with Mr. Alexander Castro, principal broker of the corporation, he admitted the violation and assured staff that the office will be removed to a close by business zone in "2 or 3 months."

Mr. CROSS moved, seconded by Mr. WICK, that on the strength of Mr. Castro's assurance that the office will be relocated in a short time, the Commission take no action at this time, but that if action to correct the violation is not taken by January 1, 1961, Commission take appropriate action at that time. Immediate communication should be sent to Mr. Castro to this decision. Motion carried unanimously.

HONOLULU REALTY BOARD'S PROPOSED NEW STANDARD FORM

Executive Secretary reported on staff's response to the Standard Forms Committee's request for comments and suggestions on the proof submitted of the new proposed "Deposit Receipt, Offer and Acceptance" form by our letter of August 9, 1960, a copy of which was furnished each member.

CHAIRMAN expressed, supported by several members, that the Commission take no action of approving or disapproving this form as it lies without the jurisdiction of this regulatory body.

COMMISSION vs JAMES MORIOKA

Chairman reported to the neighboring island members on the brief discussion held among Oahu members on irregularities in the testimony of Mr. Morioka, respondent broker. The Investigator had compiled a capsule report which illustrated the discrepancies in the July 19, 1960 testimony of parties concerned and the Oahu members had studied this material.

With the assistance of Deputy Attorney General Arthur S.K. Fong a letter had been sent to the respondent under a date July 29, 1960 closing this matter with a note of censure to the broker on his handling of a delicate situation. It was suggested in the Chairman's letter to James Morioka that the latter be more tactful in his future transaction with the public.

EXTENSION OF EMPLOYMENT CONTRACT OF ANDREW ONO, SPECIAL INVESTIGATOR

EXECUTIVE SECRETARY called to the attention of the Commission the expiration of the employment contract of ANDREW ONO on September 19, 1960. Mr. BEKEART emphasized that the employee was retained to conduct the Hawaiian Monarch investigation and further he was to draft legislation for improving and strengthening the real estate law. The Commission discussed the apparent need to thoroughly study Chapter 170 in light of problems of administration and interpretation.

Mr. BEKEART recommended that the employment contract of Mr. ONO be extended six months, that he be assigned the task of drafting needed legislation as well as to check into other possible violations by cooperative apartments and subdivision operations if found warranted.

After discussing the merits of this extension and weighing the need, it was moved by Mr. KASHIWA, seconded by Mrs. AHRENS, that the employment contract of Mr. ONO, under the conditions of the May 16, 1960 agreement, be extended to March 18, 1961 when the legislature would be in session. Motion carried.

DISCUSSION ON MECHANICS OF AUGUST 23, 1960 FORMAL HEARING ON ELSIE LUI-KWAN AND A-PLACE-TO-STAY, LIMITED

CHAIRMAN reported on his conference with the Attorney General regarding the mechanics of procedure on the scheduled formal hearing, as follows:

1. Because of the magnitude and seriousness of the case, Arthur S.K. Fong, Deputy Attorney General, was reassigned to present the State's case, having been previously relieved of this assignment in favor of Andrew Ono, Special Investigator for the Commission. Mr. Ono will assist Mr. Fong.
2. Tenny Hoon Tom, Deputy Attorney General, was assigned to act as counsel to the Commission in its conduct of the formal hearing.

Mr. CROSS inquired into the feasibility of using a hearing officer in this proceedings. CHAIRMAN replied that the matter of using a thoroughly neutral attorney-at-law to counsel the Commission had been explored at all levels. The Comptroller's advice had been sought on whether he would honor

a voucher for compensation to retain an attorney outside of government service on the grounds that this was a legal expenditure for the investigation of alleged violations. Mr. Miyake had given the EXECUTIVE SECRETARY an oral affirmative to such a hire.

In closing, the CHAIRMAN stated for the record that the Commission intends to explore every avenue in order to assure the respondents that a fair hearing will be conducted, hence time has been spent in exploring the hearing officer or outside counsel solutions to the problem of how to lay the foundation for a fair, impartial hearing.

CHAIRMAN expressed dissatisfaction, supported by several members, on the facilities available in the Governor's Conference Room for the holding of this hearing. It was agreed that the room, with a possible large audience and cumbersome furniture, was not adequate. As it was anticipated that this hearing may carry on for a day or more, the EXECUTIVE SECRETARY was directed to check on other sites in which to conduct this hearing. After a brief moment the EXECUTIVE SECRETARY reported that he had secured permission to use the Senate Chambers in which to hold these proceedings. The Commission approved this suggestion.

CHAIRMAN, in summarizing, stated that it was agreed earlier in the meeting with Oahu members present that the Commission would hear this case thru, which was agreeable to the entire membership. He also announced that for the convenience of several of the participants a recess would be called every 60 minutes and that the respondents should be given every opportunity to receive a full and fair hearing.

HONOLULU REALTY BOARD'S 5TH ANNUAL EDUCATIONAL CONFERENCE

CHAIRMAN reported that one of the main speakers sponsored by the Honolulu Realty Board in their 5th Annual Educational Conference to be held on October 27, 28, 29, 1960 is Percy E. Wagner, President of the American Institute of Real Estate Appraisers and an authority on license laws. He suggested that the Commission consider some participation in this important conference along the lines of earlier structured panels or presentations. The CHAIRMAN was of the opinion that the Commission should capitalize on the eminence of Mr. Wagner as an authority in license law legislation and educational requirements and programming.

NALLO CONFERENCE

CHAIRMAN announced that the annual conference of the National Association of License Laws Officials will be held this year in Dallas, Texas, on November 9, 10, 11, followed by the conference of the National Association of Real Estate Boards on November 12-17. He urged as many members as possible to attend these conferences. 7 days per diem would be allowed for the trip.

EXECUTIVE SECRETARY was directed to set the wheels in motion to prepare the necessary paperwork within the department and with the Executive Chambers for the travel of seven members to attend this national conference.

LEGISLATIVE PROPOSALS

The EXECUTIVE SECRETARY briefly outlined the internal communication form system originating in the Treasurer's office. He discussed the background of the July 12, 1960 telephone instruction from Department of Treasury and Regulation in reference to an Executive Chambers directive to submit a general outline of changes and improvements to the present state laws. The July 14, 1960 response to Dr. Silva was discussed as it had recently been promulgated to each member of the Commission. The Commission accepted the EXECUTIVE SECRETARY's report that this reply to the Treasurer is to be considered as the skeletal framework outlining changes and improvements to Section 170, Revised Laws of Hawaii 1955.

The CHAIRMAN emphasized to the membership and the EXECUTIVE SECRETARY that the entire licensing statute needs to be reviewed in light of problems facing the industry and operations which we can anticipate as part of our growth and economic expansion. He agreed that exploratory meetings should be initiated at once with industry leaders and other government agencies to remedy this present situation. The staff was directed to proceed strenuously in the area of overhauling the statute.

BY-LAWS

The Treasurer's internal communication form dated August 12, 1960 was presented in capsule form by the EXECUTIVE SECRETARY. In this directive suggested by-laws were presented for adaptation to suit the needs of various boards and commissions. Mr. BEKEART reported that he had made a sampling of the laws, rules and regulations of many of the other states and found that most of the states do not have by-laws but their procedures of meetings are set forth either in the statute or they are given broad authority to establish rules and regulations for the conducting of their meetings. In performing its ministerial duties as authorized by the statute the Commission has structured itself along adequate organizational lines. Historically, this regulatory body has conducted its business along the lines suggested in the bi-laws communication. For the present it was felt this matter could be set aside.

ESCROW

Mrs. AHRENS discussed the general reaction she has from services she believes are insufficient in the operations of Honolulu escrow companies. The Commission was in agreement that escrow practices were in many instances weak and that some study should be undertaken to determine why agreed-to and contracted services were not performed by those who advertise to the public that they are capable of escrowing a transaction and further that they do this service daily for compensation.

It was suggested that the Commission's legislative program might develop possible solutions to the type of problem Mrs. AHRENS reported on in her capacity as agent in different transactions.

The EXECUTIVE SECRETARY reported that he is studying California's regulation of escrow agents and expects to receive a copy of their law shortly.

CALIFORNIA DEPUTY COMMISSIONER NOESEN CONFERENCE

By invitation the Commission had invited Commissioner Savage's representative, Deputy Commissioner Elmer Noesen to attend this eighth meeting in order to present the California Real Estate Division's procedure on the registration, regulation and control of subdivisions and cooperative apartments. Also present by invitation were industry representatives from the HONOLULU REALTY BOARD: Philip Won, President; Lowell H. Christensen, Vice President; Jack K. Palk, Chairman 1960 Legislation Committee; Mrs. Isabel Veech, Executive Secretary; and Ralph Yamaguchi, board counsel.

This conference focused on the REGULATIONS OF TRANSACTIONS part of the California Real Estate Law. Implementing rules and regulations promulgated by the California Commissioner were also discussed. A report on this conference will be filed as a part of these proceedings.

ADJOURNMENT

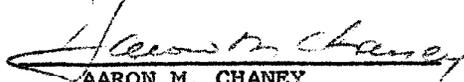
There being no other business, meeting adjourned at 3:40 p.m.

Respectfully submitted,



Robt E. Bekeart
Executive Secretary

APPROVED



AARON M. CHANEY

Chairman

REAL ESTATE LICENSE COMMISSION