

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

October 4, 1960

Chairman Aaron M. Chaney called the meeting to order at 8:20 a.m. Tuesday, October 4, 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
Andrew Ono, Special Investigator (in part)
Hannah Furuta, Recording Secretary

ORDER OF BUSINESS

MINUTES OF PREVIOUS MEETING

It was moved by Mr. Wick, seconded by Mr. Ching, and unanimously carried that the minutes of the meeting of August 22, 1960 be approved as circulated.

FISCAL REPORTS

Mrs. Ahrens moved, seconded by Mr. Cross, that the fiscal report for the month of August 1960 and the budget schedule for fiscal year 1960-1961 as presented be accepted. Motion carried.

CONFIRMATION OF TENTATIVE LICENSES ISSUED

Mr. Kashiwa moved, seconded by Mr. Yamamoto, that the following brokerage licenses issued under tentative approval by Executive Secretary be recorded as officially approved, as follows:

Stephen T. Sawyer dba SAWYER REALTY COMPANY
Richard Y. H. Mew dba REAL ESTATE HAWAII
Albert C. S. Lau dba SECURITY REALTY
Jane Budd dba BUDD REAL ESTATE

CHANGE IN CORPORATION NAME

Mr. Kashiwa made a motion for approval, seconded by Mr. Yamamoto, and motion unanimously carried, that the following corporation/licensees, having submitted the required fee and proper affidavits for change of corporate name be officially recorded, as follows:

Kahili Enterprises, Inc. to KAHILI REALTY, INC.
Charles J. Pietsch, Ltd to HONOLULU MANAGEMENT CO., INC.

October 4, 1960

Page two

REQUEST FOR BRANCH OFFICE LICENSE

The branch office license requested by HAWAIIAN TRUST COMPANY, LTD., at 44 Kainehe Street, Kailua, with Henry Gomes as Broker in Charge was approved by motion of Mr. Yamamoto and seconded by Mr. Ching. Motion carried.

APPLICATION FOR BROKERAGE LICENSE BY D. T. LAND COMPANY, INC.

Executive Secretary informed Commission re the original requests for two licenses: D. T. Land Company, Inc., and D. T. Land Development Co., Inc., with Harry S. Hew, of Honolulu, as principal broker and headquarters in Maui. In a conference with Mr. Hew the application for D. T. Land Development Company, Inc. was withdrawn and principal place of business was changed to 750-2 Kapahulu Avenue, Honolulu. Mr. Cross moved, seconded by Mr. Wick that upon submitting the required documents the D. T. Land Company, Inc. be granted a brokerage license. Motion carried.

DUTIES OF PRINCIPAL BROKER

Mr. Kashiwa suggested that the duties of the principal broker be spelled out in by-laws submitted by a corporation or partnership when applying for a license.

The members directed that steps should be taken to inform the corporate law registrar that those filing for real estate corporations and partnerships will be required to state the specific duties of the principal broker in the by-laws. Staff was directed to incorporate this provision in the revised partnership and corporation application form.

CONFIRMATION OF STAFF ACTION TO LICENSE GERALD TORRENCE JR.

Executive Secretary read Investigator's report on history of events leading to the tentative approval for issuance of license to Gerald Torrence, Jr. Executive Secretary emphasized that this action by staff is not to be construed as precedent setting. Motion for approval was made by Mr. Kashiwa, seconded by Mr. Ching and motion carried. The Investigator's report is made a part of these minutes.

ADMINISTRATIVE POLICY RE RESIDENCE REQUIREMENT

The Executive Secretary gave a short resume on the problem of making decisions at the staff level when applicants had to meet the requirement of the statute. To assist the staff in their desire not to make administrative interpretations the Executive Secretary recommended that the applicant must have two years residence on the date the examination is to be conducted. It was agreed that those failing to have the required residence time by day of written test are to be notified that their application will be moved to the next examination. Mr. Cross moved for the approval of the executive's recommendation, Mrs. Ahrens seconded, and the motion passed unanimously.

PREPARATION AND ADMINISTRATION OF OCTOBER EXAMINATIONS

Neighbor island members expressed approval of staff's selection of examination sites.

Mr. Cross inquired if outside island candidate requests to be examined in Honolulu due to absence from place of scheduled examination due to business and/or other reasons would we permit him to do so. Executive Secretary assured staff's willingness to accommodate such a candidate provided there is no abuse or publicity of such practice. Mr. Cross also suggested that should it be necessary to hold a special examination for a candidate for any good reason that such special examination should be held within one week of the regularly scheduled testing.

Mr. Kashiwa stated that the small number of candidates in Kona does not warrant the expense of sending a representative to conduct the testing there. Mr. Wick, Mr. Cross and Mr. Kashiwa felt that the responsibility is on the candidate to be present at the examination site. Suggestion was offered that we could advise candidates in isolated areas of other applicant residing in same district so that they can share transportation. Mr. Yamamoto offered the thought that perhaps we have not come to the point where we can stop giving the neighbor island candidate special consideration. Mr. Cross moved that in the future the selection of examination site be left to discretion of the island representative. Motion was seconded by Mr. Wick and passed.

REQUESTS FOR RECONSIDERATION OF JULY FAILURES

VERNON DAVIES: Staff recommends one additional point for staff error in correcting paper, making a total of 80 points, or passing. Mr. Yamamoto moved approval, Mr. Kashiwa seconded, and carried.

LOUIS B. CADINHA: Upon brief check 1/2 point was awarded in the essay section. Mr. Yamamoto was assigned by the Chairman to study his paper and make determination for final score. The Chairman's action was approved by membership.

CARL E. REINHARDT: Appeal for reconsideration studied and denied. The members were of the opinion that the standard form of contract, Exclusive Authorization to Sell, does have a provision for leasehold property as well as fee simple.

GRIFFITH R. CONRADT: Chairman reviewed candidate's performance and sustained staff's position on questions in dispute. Mr. Chaney suggested the applicant retake the test.

SUCCESSFUL CANDIDATES WITH DEROGATORY POLICY OR CREDIT REPORTS

EDWARD E. LEE (S): Several small collection accounts. Approved for licensing.

DAVID M. K. YUEN (S): Drunk driving and disorderly person arrest in 1957. Approved.

RICHARD T. AZAMA (S): Criminal Abstract reported numerous arrests for gambling since 1956; it was a consistent and current trace. The records

October 4, 1960

Page four

also show that the applicant used two aliases when he was charged by peace officers. Mr. Wick was of the opinion that a person who uses aliases would not likely be an individual of good morals and integrity. The membership, acknowledging that they were considering the qualifications of a person applying to act as a fiduciary tried to evaluate the applicant's record on the basis of good character. Commissioners also took into consideration the business and moral habits of the candidate and were in agreement that the criminal abstract entries weighed heavily against Azama. Following the discussion the Chairman moved to deny the issuance of a salesman's license, Mrs. Ahrens seconded, and motion carried unanimously.

GORMAN F. NOLAND (B): Numerous and recent collection accounts. Mr. Wick suggested that Executive Secretary interview applicant to further check and determine his credit habits and report to Commission for decision.

JACK C. Q. LEE (S): Criminal Abstract reported several charges of gambling from 1933 to 1958, plus four charges where he had used different aliases. Commissioners discussed the applicant's demonstrated lack of good character and integrity. Mr. Yamamoto moved to deny the issuance of a salesman's license, Mr. Ching seconded, carried unanimously.

MAKOTO MURAKAMAI (S): Three gambling charges - 1943-1944. Approved.

LEONARD OLAYAN (S): Drunk charge in 1956, disorderly conduct in 1957. Approved.

MOSES G. POLACIO (S): Embezzlement charge in 1948. Mr. Cross moved approval for licensing, Mr. Ahrens seconded, carried.

WINSTON WATANABE (S): Three gambling charges - 1952 to 1957. Mr. Wick moved approval, Mr. Ching seconded, carried.

AARON WUNSCH (S): Threatening charge. Mr. Ching moved approval, Mr. Cross seconded, carried.

RUTH Y. KANE (S): Violation of Sec. 192, Title 2, USC - acquitted. Reluctantly approved for licensing.

POLICY RE DEROGATORY POLICE AND CREDIT REPORTS

Mr. Cross offered that small collection accounts are common even among the better people and not necessarily reflect poor credit habits. Commission should be concerned with large accounts and frequent delinquencies.

A single drunkenness charge, it was agreed, does not reflect bad character.

Gambling charges, unless recent, consistent, or coupled with other violations, are not to be considered seriously detrimental to good character and integrity.

Mr. Cross recommended that only serious and questionable derogatory reports be presented for Commission's decision and minor cases be handled and dispatched at staff level.

NALLO CONFERENCE AT DALLAS, TEXAS

Chairman reported on conference held with Department Head by Mr. Kashiwa Mr. Bekeart and himself, and Dr. Silva's assurance of support of our request for out-of-state travel for 7 members and the Executive Secretary if we can justify reasons for and have the necessary funds. Executive Secretary stated that a justification letter will be dispatched to Dr. Silva's office in the next two days.

A five-minute recess was called at 10:15

ENFORCEMENT

REQUEST FOR RELEASE FROM EMPLOYMENT of Manabu Takayama (S) from Walter Furuya (B) was discussed. Executive Secretary explained the practise of some brokers who tie employees to a 2-year employment contract and then attempt to hold the licensee against his will. The executive believed that this was in violation of a person's constitutional rights. The salesman was not trained or sponsored under Mr. Furuya. The members approved release from Broker Furuya's employ and employment by new broker.

ROBERT E. TERUYA vs CLIFF STARK (B)

Executive Secretary read the Investigator's report on findings of complaint, which report is made a part of these minutes.

Mr. Chaney stated, supported by several members, that the matter of fees, which is the basis for this complaint, does not fall within the jurisdiction of the Commission and complaint should be dismissed.

DECISION ON HAWAIIAN MONARCH CASE

The Chairman reported on the public reaction to the Commission's action in the Hawaiian Monarch matter. He stated that he had received many requests from brokers who were interested in learning how they could get copies of the decision, finding of facts and statement. The Executive Secretary said that the statement over the Chairman's signature was going to be used as the editorial material for the next issue of RELCO COMMENTS which should be off the press before the end of October. It was also agreed by the membership that the decision and finding of facts would be interesting to publish in the official bulletin. Mr. Cross stated that he felt this matter has been handled well all the way through and added that he believed copies should be sent to all brokers so they can understand their responsibilities. Mr. Wick volunteered that in light of Mr. Kashiwa's observation that not everyone would read this material and it would find its way to the office waste basket why not send a postal card mailer asking those who are interested in securing a copy to so indicate by return mailer. Mailing to certificated brokers and broker applicants was also suggested, also it was the feeling that real estate instructors should also be given this material. Messers. Yamamoto, Cross and Ching were in favor of a mass mailing to every licensee.

Special Investigator, Andrew Ono, stated that distribution of the decision by Commission might be paramount to setting forth advisory opinions on moot questions. The Commission felt that the importance of the subject

October 4, 1960

Page six

matter and the urgency of circumstances warranted some implementation of the decision. All were in agreement that every avenue should be explored to broadcast this information to licensed brokers who then could relate it to their employed salesmen. Commission agreed to the Special Investigator's recommendation that a summary be prepared, deleting names of persons in the actual case, and such a paper be distributed to broker applicants and all those holding broker permits at an early date.

INQUIRY INTO CONDUCT OF HOWARD Q. C. HIU and KUM PUI LAI

Chairman informed Commission of events leading to his instructing the Special Investigator to prepare excerpts of testimonies in the Monarch case involving Howard Q. C. Hiu and Kum Pui Lai, one time principal broker and officer of A-Place-To-Stay, Ltd., respectively, and a summary of their part in the Hawaiian Monarch operations. The Chairman moved, seconded by Mr. Kashiwa that the Special Investigator conduct an exploratory investigation on Mr. Kum Pui Lai and report to Commission for decision on whether a hearing should be called. Motion carried.

Members agreed that Mr. Hiu at the time he was acting as principal broker carried the same responsibilities as Mrs. Lui-Kwan and Commission is obligated to take some action against him. Mr. Kashiwa asks if we could use his own testimony against him. Opinion would be sought of the Attorney General to determine if this regulatory agency could rely on the transcript of the A-Place-To-Stay hearing as foundation for a formal hearing against Howard Q. C. Hiu. The Commissioners were of the opinion that if the testimony of Mr. Hiu could be used then the agency's counsel, Arthur S. K. Fong, Deputy Attorney General, could pursue a course of negotiations for the suspension or revocation of Howard Q.C. Hiu's broker license.

REPORT OF EQUIPMENT AUTHORIZED AND PURCHASED

The purchase of equipment authorized at the July meeting was approved as follows:

Desk	\$150.00
Executive Chair	100.00
Camera and Accessories	129.06

REQUEST APPROVAL FOR PURCHASE

The Commission voted approval for purchase of the following:

Postal Scale	Approx. \$20.
Administrative Law Texts	70.

REQUEST FOR TRANSFER OF TWO MOBILEAIRE FANS

The Commission directed that the two Westinghouse Mobileaire Fans turned over to the Treasury Department be recorded as being on a loan basis and that the equipment be properly tagged as being the property of the Real Estate License Commission.

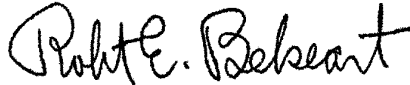
PROGRESS REPORT ON REVISION OF REAL ESTATE LICENSE LAW

Special Investigator, Andrew Ono, gave a brief progress report on his assignment to draft a proposed revision of the real estate law of the State of Hawaii. He emphasized the fact that the present law is a good law in comparison to the laws now in existence throughout the sister states. However, he pointed out that the recent boom in the Hawaiian economy and especially the growth in the real estate industry has raised a new variety and volume of real estate problems for the community. He stated, first, the need for expanded jurisdiction on the part of the Commission. Second, the need for more definitive statutory clarification for licensing procedures and license maintenance. He stated that, in his observation, the clerical staff of the Commission was being required to make too many administrative decisions due to the lack of definiteness in the present statute. Thirdly, he emphasized the need, made apparent by the recent cases before the Commission for clarification in the enforcement and disciplinary aspects of the statute. Finally, the investigator reported briefly that his study of the cooperatives and subdivision problems were currently taking concrete form and that the main direction of the law in this area would be to provide for adequate "disclosure of material facts" in sales transactions of such units and some provision for alternative devices to secure "deposit moneys" and the investments of purchasers imbued with "blanket encumbrances."

FORMAL HEARING ON REAL ESTATE LICENSE COMMISSION vs ANGELES A. FERNANDES

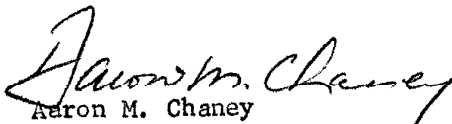
After recess for lunch the Commission reconvened at the Senate Chambers in the Iolani Palace to hear the case of REAL ESTATE LICENSE COMMISSION vs ANGELES A. FERNANDES, Broker.

Respectfully submitted,



Robt E. Bekeart
Executive Secretary

APPROVED:



Aaron M. Chaney
Chairman