

REAL ESTATE COMMISSION
Professional & Vocational Licensing Division
Department of Regulatory Agencies
State of Hawaii

MINUTES OF MEETING

Date: Thursday, August 26, 1976

Place: Board Room, Department of Regulatory Agencies
1010 Richards Street, Honolulu, Hawaii

Present: Ah Kau Young, Chairman
Mary V. Savio, Vice Chairman
Tadayoshi Ishizu, Member
Edwin H. Shiroma, Member
Ralph S. Yagi, Member

Allan Kawada, Deputy Attorney General
Russell Nagata, Law Clerk
Yukio Higuchi, Executive Secretary
John W. Reilly, Educational Consultant
Peggy Lau, Clerk-Stenographer

David M. Peters, Director, Small Business Management Program, U.H.
Calvin W. Ontai, Applicant for Real Estate Broker's License
Mary Shern, Mary Shern School of Real Estate
Paige Vitousek, Vitousek Real Estate Schools

Call to Order: There being a quorum, Chairman Ah Kau Young called the meeting to order at 9:03 a.m.

The Executive Secretary reported that today's agenda was filed in the Lt. Governor's office on Thursday, August 19, 1976, in compliance with the Sunshine Law.

Minutes: Edwin Shiroma moved and Mary Savio seconded to approve the minutes of the August 10, 1976 meeting as circulated. Motion carried unanimously.

Committee Reports: Real Estate Education Advisory Council

Request for Approval to Offer Home Study Course by Vitousek Real Estate School

The Executive Secretary reported that as directed, he sent notices to Mary Shern, Paige Vitousek, Joann Stewart and Marshall Goldman to be present for a conference on home study courses. The purpose being to have the Commission's

concern expressed that by permitting home study courses, it may be circumventing the intent of the law, which requires 30-class hours; and that eventually all the real estate schools may be making the same request as others are offering home study courses.

Just Mary Shern and Paige Vitousek appeared. During the discussion, Mary Shern gave a report of her operations and of her experience with home study courses, which is on an experimental basis. Mary Shern further explained that because it is hard to keep students motivated and the rate of dropouts is high with students enrolled in home study courses, she tells students to go to regular classes, if available, even though it is not offered by her. As a further motive for students to attend regular classes, she sets the cost for home study courses higher than her regular classes. Paige Vitousek explained what her home study course will offer.

Chair informed Shern and Vitousek that the Commission will take this matter under advisement and they will be notified shortly thereafter. They were then dismissed.

Mary Savio moved and Tadayoshi Ishizu seconded that Paige Vitousek be allowed to hold home study courses on a provisional basis until the end of this year and at that time she be required to submit a report. Motion carried unanimously.

Mary Savio moved and Tadayoshi Ishizu seconded that the Executive Secretary get a written expression of an opinion from the Attorney General's Office clarifying classroom hours as stated in the law. Motion carried unanimously.

Establishment of Real Estate Chair

The Executive Secretary informed that he has submitted the request to the Governor's office for the establishment of a real estate chair; to date, he has received no reply.

Staff Educational Officer Position

The Executive Secretary reported that the Director will not approve the staff educational officer's position, because the Director was told by the Commission that it would fund this position from the Real Estate Education Fund, and now the Commission wants it funded by the General Fund. The Director will fill this position only if it is agreed that it will be funded by the Real Estate Education Fund.

The Executive Secretary clarified that this position will be on a continuing basis. John Reilly, the educational consultant, starts the planning, and this position will coordinate the plans.

Following some discussion, Mary Savio moved and Edwin Shiroma seconded to hire a real estate staff educational officer funded by the real estate education fund, and that the Commission aid in establishing the job description and in the selection of the staff educational officer. Motion carried unanimously.

Donation of Real Estate Books

Following some discussion, the Commission members agreed that the Executive Secretary make the initial contact with the University libraries, and let them buy the books from John Reilly, so the Commission will not have to make annual inventories of the books.

Educational Consultant's Report

John Reilly gave a summary report on the following major areas he wanted the Commission's approval and support on:

1. Licensee Profile. Obtain statistics of the type of licensees in Hawaii--their background, education and present activity--by circulating questionnaires.
2. Examination Procedures. Explore alternative methods of processing examination and license applications, in an attempt to reduce staff's time.
3. Pilot Research Grant on Trust Funds. Research and devise an educational pamphlet on trust fund accounting guidelines.
4. Commission's Question Box. Create a column in the Commission's Bulletin to provide a forum to discuss pertinent procedures and policies of the Commission, which should create more public awareness.

Following considerable discussion, Mary Savio moved and Edwin Shiroma seconded to approve the concept of the Licensing Profile project, subject to John Reilly checking further on how this can be done and the costs involved. Motion so carried. (Since this concept is at an exploratory stage, John Reilly was requested to report his findings at the next meeting.) Motion carried unanimously.

Edwin Shiroma moved and Mary Savio seconded to approve Item No. 2 immediately. Motion carried unanimously.

Edwin Shiroma moved to take Item No. 3 under advisement and discuss this further on how the Commission's budget is set up. Following some discussion, Edwin Shiroma withdrew his motion.

Mary Savio moved and Ralph Yagi seconded to approve the concept of the pilot research grant on trust fund accounting with the intention that it be funded by the Real Estate Education Fund, and that we ask the Educational Consultant to report back as the next meeting on the estimated costs. Motion so carried.

Mary Savio moved and Tadayoshi Ishizu seconded to favor approval of the Commission's question box, if we have a large bank of questions provided by the Educational Consultant. Further, that a committee be set up to review the questions and answers. Motion carried unanimously.

Legislation Committee

S. R. No. 439 (Mary Savio)

Mary Savio reported that her committee is meeting a couple times a week to continue studying the problems in the condominium developer-owner relationship and formulation of a proposed condominium code, and they are writing up suggested legislation.

H. R. No. 474 (Mary Savio)

Mary Savio reported that she has a good group on her committee and that they are progressing on their study on the advisability of compulsory education for real estate licensees. Her committee suggested that John Reilly prepare the questionnaire on the licensee profile. This information will help prepare a study to determine the need for continuing education.

S. R. No. 629 (Edwin Shiroma)

Edwin Shiroma reported that his committee has held seven meetings to date. They have decided what areas they will cover with references made to other states' procedures. He informed that the Commission will have an opportunity to see their proposal before submittal to the legislature.

Time-Sharing Bill (John Urner and Ralph Yagi)

Ralph Yagi informed on the material he received from Sandwich Islands Realty, Inc. on time sharing. He gave a copy to the

Executive Secretary and John Urner's copy will be mailed as John Urner was not present.

Laws and Rules Review Committee

Chairman Young appointed Edwin Shiroma to chair the Laws and Rules Review Committee, and also appointed Mary Savio on the Committee with John Reilly's assistance. The Executive Secretary shall assist the Committee.

Real Estate Recovery and Education Funds

The Executive Secretary advised that as of July 31, 1976, there is a total of \$444,568.21 in the real estate recovery fund, and a total of \$256,501.49 in the real estate education fund.

The Executive Secretary further advised that the recovery fund is being tapped again. He has received a letter from Sidney Ayabe advising that a motion has been granted ordering the Commission to pay a judgment of \$10,000 from the recovery fund in the matter of Daiwa Pacific Development Corp. vs. Michael Pierce.

Edwin Shiroma moved and Ralph Yagi seconded that the Executive Secretary acknowledge receipt of the letter and authorize the Executive Secretary to make the payment as ordered, and that a copy of the letter notifying Michael Pierce that his license has been automatically terminated, be sent to his broker. Motion unanimously carried.

Attorney General's Report

No report--The Deputy Attorney General replacing Clyde Sumida has not been named.

Business Out
of Minutes:

Questionable Application

Calvin W. Ontai, Applicant for Broker License

Calvin Ontai appeared before the Commission to present verbal arguments of his written exceptions to the hearing officer's findings of facts, conclusions of law and order. Ontai was not represented by an attorney.

The Executive Secretary gave a brief history of what has transpired--Ontai applied for his broker's license beyond the one-year period prescribed by law; his application was denied; he was advised of his hearing rights; a formal hearing was conducted by E. John McConnell; McConnell has

submitted his findings and recommendations; and Ontai was given 15 days to file exceptions, which he has done.

Ontai began explaining the surrounding circumstances. Deputy Attorney General Allan Kawada, the prosecutor, objected--stating that Ontai's testimony was irrelevant as this was not a rehearing but the time for Ontai to take exceptions to the hearing officer's findings.

Chair declared a recess to poll the Commissioner's vote of whether to overrule or sustain Kawada's objections. Ontai, Kawada and Russell Nagata (an observer) were requested to leave the room as the Commissioners deliberated. Following the recess, chair advised Ontai to confine his arguments to the three exceptions, which he submitted in writing. Kawada entered his continuing objections.

Ontai presented four arguments. Chair granted Kawada's request to rebut Ontai's arguments since the matter is out before the Commission and at the same time not remove his continuing objections.

There being no further questions, Chair advised Ontai that this matter would be taken under advisement, and he would be notified of the Commission's decision shortly thereafter. Ontai, Kawada and Nagata were then excused.

Chair declared an early lunch (11:40 a.m.) to enable the Executive Secretary to research what the procedures were in 1973 for applying for licensure.

The meeting reconvened at 1:15 p.m., with the Executive Secretary reporting his findings and the old rules and regulations being reviewed.

After further discussion, Mary Savio moved and Edwin Shiroma seconded to accept the hearing officer's findings of facts, conclusions of law and recommendation that Calvin Ontai's application be denied. Motion carried unanimously.

Investigations: RE-643 Werner G. Ehrensberger

The Executive Secretary apprised that the formal hearing on Werner Ehrensberger has been scheduled for August 30, 1976 and that John Texeira and John Urner are the Commission's hearing officers and Darryl Choy is the Department's hearings officer.

RE-76-45 Iris Riber Realty

The Executive Secretary asked for the Commission's indulgence as he did not have time to follow-up on this matter, because

of the short period of time between the last meeting and today's. However, he will schedule the informal conference with Iris Riber and Donald Tamashiro for the September meeting.

RE-587 Frances MacDonald

The Executive Secretary circulated copies of the Department's Hearings Officer's findings of fact, conclusions of law and recommended order for informational purposes. The Executive Secretary advised that the respondent has 15 days to file exceptions. Therefore, no further discussion will be held on the matter until the 15-day period expires.

RE-633 Walter N. Clark

The Executive Secretary stated that he did not have time to prepare the hearing notices, because of the short period of time between the two August meetings.

New Business:

Licensing

CORPORATION

Cushman & Wakefield of Hawaii Inc. - 190 S. King, #1174, Honolulu
James K. Anderson-pb
David Realty Inc. - 1019 University Avenue, #5A, Honolulu
David P. Lewis-pb
Grand Pac Inc. - 225 Queen Street, #27G, Honolulu
Raymond Y. C. Ho-pb
Hawaii Surf Inc., dba Ilikai Rental Office - 1777 Ala Moana Blvd.,
Stephanie J. MacDonald-pb #214, Honolulu
Overseas Trading Corp. - 4340 Pahoehoe Avenue, #3D, Honolulu
Thomas H. Ching-pb

Following some discussion, Mary Savio moved and Ralph Yagi seconded to approve the above applications, except for Cushman & Wakefield of Hawaii Inc. as Cushman and Wakefield are not licensed brokers in Hawaii. Motion so carried.

PARTNERSHIP

Action West Associates - 1441 Kapiolani Blvd., #917, Honolulu
Harry G. Yoda-pb

Mary Savio moved and Ralph Yagi seconded to approve the above partnership application. Motion carried unanimously.

TRADENAME

LPC Realty - 826 Kaheka Street, #306, Honolulu
Lionel P. Camara, dba
Charles Wetter Realty - 1933 S. Kihei Road, Kihei, Maui
Charles R. Wetter, dba

Mary Savio moved and Ralph Yagi seconded to approve the tradename applications. Motion carried unanimously.

Miscellaneous: Boards and Commission Study

The Executive Secretary reminded that the deadline for returning the Director's questionnaire is August 27, 1976.

Aaron Chaney's Request for Interpretation of Acts 214 and 239, S.L.H. 1976

The Executive Secretary read Aaron Chaney's letter requesting for interpretation of Acts 214 and 239.

Following considerable discussion, the Executive Secretary was directed to refer this to the Attorney General's office for response.

48th Annual Conference of NARELLO

The Executive Secretary apprised that the 48th Annual Conference of NARELLO will be held in Colorado Springs on October 10-14, 1976. Tadayoshi Ishizu, John Urner and the Executive Secretary are scheduled to represent Hawaii. The Executive Secretary further apprised that the ETS Advisory Committee meeting will also be held in Colorado Springs on October 9 and 10, 1976 to review new test questions.

Upon conclusion of the discussion, Edwin Shiroma moved and Ralph Yagi seconded that the Chair approach the Director to allow Mary Savio to attend the ETS meeting in conjunction with the NARELLO Conference as she is chairman of the Real Estate Education Advisory Council, and further that the Executive Secretary be allowed to leave earlier to also attend the ETS meeting. Motion carried unanimously.

1977 NARELLO Western Division Conference

Chair distributed copies of different hotel rates on Maui and Honolulu obtained by Group Travel.

Following considerable discussion, Edwin Shiroma moved and Tadayoshi Ishizu seconded that the 1977 NARELLO Conference be held in Honolulu at the Sheraton-Waikiki Hotel and that Group Travel Unlimited be given authority to act as agent for the Commission. Motion carried unanimously.

ETS Advisory Committee Meeting at Colorado Springs, Colorado

See 48th Annual Conference of NARELLO.

Correspondence: Real Estate Schools Association of Hawaii's Letter of August 17th

The Executive Secretary briefed that this letter congratulated ETS for the excellent instructors' seminar put on by its representatives.

The Executive Secretary was directed to send a copy of this letter to ETS.

Next Meeting

Thursday, September 30, 1976, in the Public Utilities Commission Examination Room.

The October 13, 1976 meeting was changed to October 21, 1976.

Adjournment:

There being no further business to transact, Chair adjourned the meeting at 3:50 p.m.

Taken and recorded by:

Peggy Lau
Peggy Lau, Clerk-Stenographer

Approved by:

Yukio Higuchi
YUKIO HIGUCHI, Executive Secretary

9/13/76