

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

MINUTES OF MEETING

Date: Friday, May 13, 1977

Place: Public Utilities Examination Room
Department of Regulatory Agencies
1010 Richards St., Honolulu, Hawaii

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

Russel Nagata, Deputy Attorney General
John W. Reilly, Educational Consultant
Yukio Higuchi, Executive Secretary
Saeko Whang, Secretary

Prof. Donald W. Bell, College of Business, U. of H.
Crocker H. Liu, College of Business Admin., U. of H.
M/M Richard Yoder, Complainants
Violet King, Applicant for Broker License

Call to Order: There being a quorum, Chairman Young called the meeting to order at 9:10 a.m.

Chairman Young read a letter of "Thanks" from Peggy Lau, who sent a box of candy to the Commissioners in appreciation of their thoughtfulness during her recent confinement.

The Executive Secretary apprised that the agenda for today's meeting was filed at the Lt. Governor's office in compliance with the Sunshine Law.

Minutes: Mary Savio moved and Ralph Yagi seconded to approve the minutes of March 18, 1977 meeting as circulated. Motion carried unanimously.

Committee Reports: Real Estate Education Advisory Council

Applications for Accreditation of Real Estate Schools and Instructors' Certification

Real Estate Schools of S/M (name change)

Mary Savio moved and Tadayoshi Ishizu seconded to approve request of Hilda Morse, Principal, to allow change of

name from "Real Estate Schools of St. Michael" to "Real Estate Schools of S/M." Motion carried unanimously.

Thomas Frank Schmidt (Salesman instructor)

Mary Savio moved and Tadayoshi Ishizu seconded to approve certification of Thomas F. Schmidt as salesman instructor, provided he fulfills all requirements. Motion carried unanimously.

Peter Thomas Young (Salesman and Broker instructor)

Edwin Shiroma moved and Mary Savio seconded to approve Peter Thomas Young's application for instructor's certification. Motion carried unanimously.

Peter T. Young's Request for Aid from Real Estate Education Fund

The Executive Secretary read a letter from Peter T. Young, representing Kona Board of Realtors, requesting financial aid for their proposed educational forum entitled, "Leaseholds, Their Past, Present and Future."

After a brief discussion, Edwin Shiroma moved to decline the request, seconded by John Texeira. The general consensus was the amount requested is too high and the Commissioners did not know how the funds were detailed. Motion carried unanimously.

S.B.M.P. Continuing Education Project

The Executive Secretary apologized for not preparing a request for Governor's approval to go ahead with this project. John Reilly stated that, so as not to delay this matter, he is forging ahead with this project prior to contract approval. He understood that, if the contract is not approved, he may have to pay for this work from his own funds.

Establishment of Real Estate Chair

The Executive Secretary reported project was approved by the Department of Personnel Services. He suggested that the Commissioners get together for a signing ceremony, coordinated with taking of some photos to be used in the Real Estate newsletter. This matter is to be set up in a couple of weeks.

Educational Consultant's Report

John Reilly introduced Crocker Liu who prepared the analysis of licensing statistics entitled "Characteristics and Performance of Real Estate Brokers and Salesmen in the Hawaiian Islands." John Reilly publicly thanked Crocker Liu for the fine work and stated a letter would be forthcoming in recognition of his work. Copies of the book were circulated among the Commissioners. John Reilly

was requested to prepare a recommended list of persons to receive this book from the Commission.

John Reilly briefly reported on real estate seminars; (1) dates set up for each island and requests each Commissioner to seriously promote project for each respective island, (2) real estate school certification program outline plan set up will be presented to the Commission on May 26, 1977, and (3) requests approval to pay \$150 fee for preparation of analysis to Crocker Liu and reimbursement of \$75 for cost of printing and binding.

Mary Savio moved and Tadayoshi Ishizu seconded to approve request for payment. A vote was taken by raising of hands. Motion carried unanimously.

John Reilly reminded the Commission that their program of donating real estate books is coming to a close for 1976-1977 fiscal year. Each year contribution of books worth \$700 is donated to the U. of H. and state library systems. It was suggested by the Executive Secretary that Mary Savio, Committee Chairman, be authorized in making the final decision of referring the books. Motion was made by John Texeira and seconded by Edwin Shiroma to accept the report of John Reilly and to authorize Mary Savio to select the books to be donated. Motion carried unanimously.

John Reilly queried the Commission as to how much waiver an applicant may receive for each GRI course he takes under the new GRI program.

After discussion, Mary Savio moved and Edwin Shiroma seconded to accept John Reilly's recommendation, on an interim basis, the following criteria for those completing GRI courses partial waiver of experience:

3 months credit	-	GRI I
3 months credit	-	GRI II
1 year credit	-	upon satisfactory completion of all 3 GRI courses

This entire matter will be reviewed by educational consultant in the final report. Motion carried unanimously.

Legislation Committee

S.R. No. 482 and H.R. No. 728

The Executive Secretary circulated and explained that the two resolutions which passed were identical. It was suggested that this "Aloha" resolution be read at the upcoming NARELLO convention on June 15, 1977.

S.B. No. 330

This bill passed both houses and relates to recodification of the entire HPR Act.

H.B. No. 259

This bill, which recognizes the salesman as an independent contractor, passed both houses and is awaiting the Governor's signature.

Deputy Attorney General Russel Nagata stated that H.B. No. 259 further amended the maximum real estate recovery liability from \$20,000 to \$40,000 for any one licensee. This bill may apply to pending cases.

H.B. No. 261

This bill passed both houses and allows a real estate salesman to acquire a General Excise Tax when acting as an independent contractor.

H.B. No. 978

This bill contains several amendments to the HPR law and passed both houses.

H.B. No. 1284

H.B. No. 1284 passed both houses. This HPR bill relates to extending the statute of limitation from 1 year to 2 years and contains other amendments to the existing HPR law.

The Commissioners noted a possible conflict on exclusive assignment of parking in Section 2 of H.B. No. 978 and Section 3 of H.B. No. 1284.

Laws and Rules Review Committee

Edwin Shiroma, Chairman of Rules Review Committee, thanked Mary Savio for use of Tropic Shores Realty facility and also thanked other members for their input. He announced that the next review committee meeting will be held the day before the next Commission's meeting.

Real Estate Recovery Fund

The Executive Secretary stated that he will get a report from fiscal for the next meeting.

Business Out
of Minutes:

Ombudsman Letter

At the request of the Executive Secretary, Edwin Shiroma moved and Mary Savio seconded to add to the agenda in compliance with the Sunshine Law the matter regarding non-refund of salesman's renewal fees. Motion carried unanimously.

Deputy Attorney General Russel Nagata stated that there are two cases involved: (1) Licensee paid \$50 renewal fee because the broker exam results were not known prior to December 31, 1976 and subsequently learned that he passed the broker's exam; and (2) licensee passed away in January and widow desires a refund. Counsel advised that based on his interpretation, the fees were not erroneously paid.

After discussing the situations in depth, Mary Savio moved and John Urner seconded to direct the Executive Secretary to respond to the Ombudsman's letter disclaiming any errors on fees paid.

Investigations: The Complaint Review Committee consisting of Oahu members, Russel Nagata, D.A.G., Bob Klein, Departmental Complaints Officer, and Executive Secretary met to review the investigations. The Executive Secretary reported as follows:

RE-76-76 Roger A. Cotton

Committee recommended that complainant be notified that recovery of his money is a civil matter over which the Commission has no jurisdiction and that he should seek relief through civil proceedings. A letter of warning to be sent to Cotton that it appears he may have held himself out or represented that he acted as a licensed broker and he must discontinue this practice. Edwin Shiroma moved and John Texeira seconded to accept the Committee's recommendation. Motion carried unanimously.

RE-76-128 Aiea Lani Corporation

The Executive Secretary briefly read the 17 items of complaint.

Mr. and Mrs. Richard Yoder presented their complaint orally and answered questions posed by the Commissioners. Chairman Young thanked the couple for appearing and said that the matter will be taken under advisement at a later date.

Following discussion, Edwin Shiroma moved and John Texeira seconded to call Warren Ho and the Vice-President of Aiea Lani Corporation for an informal conference at the next meeting. Motion carried unanimously.

RE-75-27 Benjamin Kong

Edwin Shiroma moved and Mary Savio seconded to add this matter to the agenda, upon Executive Secretary's request, in compliance with the Sunshine Law. Motion carried unanimously.

The Executive Secretary reported that Ben Kong came in personally on May 10 to discuss settlement. He related that in order to settle this case, he had offered Tong the following: (1) To purchase a unit with a large parking stall and exchange the parking stall with Tong's smaller parking stall; (2) will trade Tong's small stall plus \$2,000 for any large stall when any becomes available.

After deliberation, John Texeira moved and Edwin Shiroma seconded to direct Ben Kong to prepare a settlement agreement to be submitted to the Commission for its approval. Motion carried unanimously.

RE-76-140, RE-76-152, CON-76-12 Mary Lou Whitman, Realtor

Investigator Alvin Yamamoto circulated supplementary report on the above matter.

After discussion, Ralph Yagi moved and John Texeira seconded to call Daniel Matsukage in for an informal conference at the next Commission's meeting. Motion carried unanimously.

RE-76-144 World Wide Realty Investment Corp.

The Committee recommended a formal hearing to be held against World Wide Realty Investment Corp., John L. Cooper, Daniel E. Wilson, Ross G. Shelton and Bruce S. Ames for misrepresentation and wilfully neglecting to advise whether the purchase was by agreement of sale or purchase money mortgage, in violation of Commission's Rule 1.3 (a)(b)(d) and (f) and Section 467-14 (2) and (5). Mary Savio so moved and Tadayoshi Ishizu seconded to accept the Committee's recommendation and to designate departmental hearings officer to hear the case. Motion carried unanimously.

RE-76-147 John J. Barabe

The Committee recommended a formal hearing to be held against Westward Ho Realty, Inc. in violation of clients trust account provisions, and against John Barabe for acting as a broker while licensed as a salesman.

John Texeira moved and Ralph Yagi seconded to accept the Committee's recommendation to hold a formal hearing and designated departmental hearings officer to hear the case. Motion carried unanimously.

RE-76-152 Mary Lou Whitman

After discussion, Ralph Yagi moved and John Texeira seconded to defer action on the above matter until after the informal conference with Daniel Matsukage on RE-76-140. Motion carried unanimously.

RE-76-156 Investment Properties, Corp.

On recommendation of the Committee, Mary Savio moved and John Texeira seconded to dismiss the case as this is a subjective matter as to what is clean and what is not, and there was no violation of Chapter 467 or the HPR law. Motion carried unanimously.

RE-76-161 Real Estate Centre, Inc. (Part I)
Fairway Villa Venture and Carwin Corp. (Part II)

Part I - Committee recommended that the case be dismissed on grounds that there was no violation; the purchaser got what it bargained for. It appears that complainant

did not rely on statement in brochure when he entered into a contract to purchase as the contract clearly spells out that closing cost would be paid by buyer.

Ralph Yagi moved and Tadayoshi Ishizu seconded to dismiss the case. Motion carried unanimously.

Part II - Committee recommended letter of warning be sent for failure to submit revised sales contract and revised brochure to the Commission. Ralph Yagi moved and Tadayoshi Ishizu seconded to accept the Committee's recommendation. Motion carried unanimously.

RE-77-11 Midkiff Realty, Inc.

The Committee recommends the Commission to defer action until a supplementary report is prepared. It also recommends the investigator to check supervision of sales staff on Kauai office inasmuch as Bernice Midkiff resides in Honolulu.

Mary Savio moved and Ralph Yagi seconded to accept the Committee's recommendation. Motion carried unanimously.

RE-77-24 Cantex Development Corp.

As there may be a possible violation of Section 514-41 and Section 467-7, Committee requests the Deputy Attorney General to research further before the Commission takes action.

Under Section 467-7, Committee recommends investigation to determine whether all requirements for a hotel has been fulfilled. The Committee felt there was a possible violation of Security Exchange Commission laws. It was suggested that the Canadian authorities be notified of this possible violation.

John Texeira moved and Tadayoshi Ishizu seconded to defer action on this case until further investigation has been completed. Motion carried unanimously.

RE-76-26 Hiromu Yamanaka Realty, Inc.

As the Committee feels there may be a possible violation of Rule 1.3 (b) and Section 467-13 but could not decide, it requests the full Commission make a decision.

After discussion, Ralph Yagi moved and Edwin Shiroma seconded to hold a formal hearing and to designate departmental hearing officer to hear the case. A vote was taken on the motion. Ayes: John Urner, Edwin Shiroma, Ralph Yagi and Ah Kau Young. Nays: John Texeira. Motion carried.

RE-77-28 Mike McCormack

The Committee recommended that there appears to be no violation of unlicensed activity because this seems like a hotel operation as against real estate rental program. They recommended the investigator to submit a report on how the rental program is operated to determine whether hotel or not. The Committee requests documents be acquired such as hotel license, gross income license, guest cards, type of services available, method of marketing, etc.

Edwin Shiroma moved and Ralph Yagi seconded to defer action pending further investigation. Motion carried unanimously. (Chairman Young also voted.)

RE-77-45 Waikiki Realty, Ltd.

No action is required as this report was requested by the Real Estate Recovery Fund counsel for his perusal.

CON-76-12 Maunaihi Developers

Edwin Shiroma moved and Ralph Yagi seconded to defer action on this matter as it is related to RE-76-140.

CON-76-17 McCormack Management Group

Upon the recommendation of the Committee, Ralph Yagi moved and Edwin Shiroma seconded to dismiss the case inasmuch as the complainant has been satisfied. Motion carried unanimously.

New Business:

Licensing

CORPORATION

Alohawaii Real Estate, Inc. - 1149 So. Beretania St., Honolulu
Peter T. Kimura, pb

Edwin Shiroma moved and John Urner seconded to approve the application of Alohawaii Real Estate, Inc. Motion carried unanimously.

Estate Realty, Inc. - 116 Hekili St., Kailua
Stanley D. Brilhante, pb

John Urner moved and Talph Yagi seconded to approve the above application. Motion carried unanimously.

Financial Center Realty, Inc. - 745 Fort St., #418, Honolulu
Patrick W. Murphy, pb

Edwin Shiroma moved and John Urner seconded to defer action on the application of Financial Center Realty, Inc. subject

to checking with the principal broker on how his time is spent regarding supervising of his sales staff. Motion carried unanimously.

M. Harvey Co., Ltd. - 1860 Ala Moana Blvd., #401, Honolulu
Joseph G. Blackburn, pb

Edwin Shiroma moved and John Urner seconded to disapprove the application of M. Harvey Co., Ltd. based on name, who is not licensed. Motion carried unanimously.

Island Resort Management, Inc. - American Savings & Loan
James E. Chisholm, pb Bldg., #207, Lahaina

Ralph Yagi moved and John Urner seconded to approve the above corporate application. Motion carried unanimously.

Kauwe and Furutani, Inc. - 2828 Paa St., #1003, Honolulu
Albert D. Kauwe, pb

Edwin Shiroma moved and Ralph Yagi seconded to approve Kauwe and Furutani, Inc. corporate application. Motion carried unanimously.

Ty H. Kimura Corporation dba Ty Property Consultants - 125
Ty H. Kimura, pb Merchant St., #201, Honolulu

Motion was made by Edwin Shiroma, seconded by John Urner, to approve above application. Motion carried unanimously.

Leland Realty, Inc. - 745 Fort St. Mall, #908, Honolulu
Lawrence K. W. Lee, pb

Ralph Yagi moved and Edwin Shiroma seconded to approve above application. Motion carried unanimously.

Edward Medeiros & Associates, Inc. - 2955 Ewalu St., Lihue
Edward Medeiros, pb

It was moved by Edwin Shiroma, seconded by John Urner, to approve application of Edward Medeiros & Associates, Inc. Motion carried. John Texeira abstained.

Jack Mock and Associates, Ltd. - 761 Bishop St., Honolulu
John S. Mock, pb

Edwin Shiroma moved and Ralph Yagi seconded to approve corporate application of Jack Mock and Associates, Ltd. Motion carried unanimously.

Nestor and Associates, Inc. - 1015 Bishop St., #695, Honolulu
Joseph B. Nestor, pb

Edwin Shiroma moved and Ralph Yagi seconded to approve Nestor and Associates, Inc. application. Motion carried unanimously.

Naomi Sharp & Associates, Inc. - 159 C. Keawe St., Hilo
Naomi B. Sharp, pb

John Texeira moved and Ralph Yagi seconded to approve Naomi Sharp & Associates, Inc. Motion carried unanimously.

TRADENAME

Hawaii Realty Co. - 1314 So. King St., #717, Honolulu
Peter T. Namkoong, dba

John Texeira moved and Ralph Yagi seconded to approve above application for tradename. Motion carried unanimously.

Honolulu Investment Co. - 700 Bishop St., #808, Honolulu
Joseph E. Beste, dba

Edwin Shiroma moved and John Urner seconded to approve above application subject to name check. Motion carried unanimously.

Alex B. Ingel Realty - 2024 N. King St., #101-B, Honolulu
Alejandro B. Ingel, dba

John Texeira moved and Ralph Yagi seconded to approve above application. Motion carried unanimously.

J M Realty Company - 1270 Queen Emma St., #606, Honolulu
Jacob M. Manegdeg, dba

Edwin Shiroma moved and Ralph Yagi seconded to approve above application for tradename. Motion carried unanimously.

Newhall Realty - 444 Hobron Lane, #405, Honolulu
Frank W. Newhall, dba

Ralph Yagi moved and John Texeira seconded to approve above application. Motion carried unanimously.

Larry Redden Realty - 305 Uluniu St., Kailua
Lawrence E. Redden, dba

Ralph Yagi moved and John Urner seconded to approve application of Larry Redden Realty for tradename. Motion carried unanimously.

CHANGE OF CORPORATE NAME

Fahrni Realty, Inc. - 850 Kam Hwy., Pearl City
Helen K. Fahrni, pb (formerly Francis A. Wong & Assoc., Inc.)

Edwin Shiroma moved and Ralph Yagi seconded to approve above application for change of corporate name. Motion carried unanimously.

Kanemoto Realty, Inc. - 100 Pauahi St., #202, Hilo
Edward Y. Kanemoto, pb (formerly Kanemoto Realty & Management, Inc.)

Edwin Shiroma moved and John Urner seconded to approve the application of Kanemoto Realty, Inc. subject to receipt of a certified copy of amendment to Articles of Incorporation changing name. Motion carried unanimously.

LATE APPLICATIONS FOR LICENSE

Colleen N. S. McClelland

Ralph Yagi moved and Edwin Shiroma seconded to deny the above late application and that applicant be notified to a hearing. Motion carried unanimously.

Kathleen A. Smith

John Urner moved and Ralph Yagi seconded to deny the late application for license of Kathleen A. Smith and that she be notified to a hearing. Motion carried unanimously.

Lawrence K. Ueki

Ralph Yagi moved and Edwin Shiroma seconded to deny the above late application filing and that applicant be notified of his right to a hearing. Motion carried unanimously.

RESTORATION OF REVOKED LICENSE

Frances R. MacDonald

No action was taken on this matter since the request is for reinstatement of suspended license and does not require Commission approval.

RESTORATION OF FORFEITED LICENSE - Past 2 years deadline

Iola Rhyne

The Executive Secretary read applicant's affidavit for restoration of forfeited license and letters written in her behalf from Director Gordon Wong and Director Eileen R. Anderson.

Ralph Yagi moved and Edwin Shiroma seconded to deny restoration of license. Motion carried unanimously.

Following the Executive Secretary's argument that the Commission would have no basis to deny under present Rule 1.8 (b) Ralph Yagi moved and Edwin Shiroma seconded to rescind their earlier action and to defer action until the Commission can have an opportunity to informally interview Iola Rhyne at the next meeting for question and answer. Motion carried unanimously.

Miscellaneous: 1977 NARELLO Western District Conference

Chairman Young reported that there are 52 persons registered so far and are awaiting program information to come. He stated that by May 15, 1977 the package should be here.

Chairman requested \$50 registration fee for each Hawaii Commissioner and Russel Nagata, and per diem and air fare for island members.

Correspondence: Kenneth F. Spencer's Request for Waiver of Salesman Experience

Edwin Shiroma moved and John Urner seconded to allow the maximum allowable waiver of 1 year to Kenneth F. Spencer. Motion carried unanimously.

Michael M. Cook's Questions on Application of Condominium Law & Rules

The Executive Secretary was directed to respond to Michael M. Cook's letter.

RESAH Critique on April 23rd Examination

The Executive Secretary read letter of Marshall Goldman, critique of April 23 exam.

The Executive Secretary advised the Commission that all examination papers are recalled by ETS for security purposes and we have no control over it.

Edwin Shiroma moved and Tadayoshi Ishizu seconded to send a copy of Marshall Goldman's report and comments to ETS. Motion carried unanimously.

Sleeping Giant Realty, Inc. Request for Use of Name "Kauai Vacation Rental"

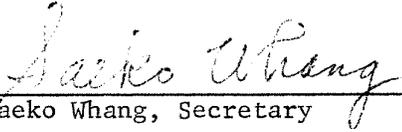
After discussion, request was turned down. The members were in agreement that the firm can form a subsidiary corporation for its rental business.

Date of Next Meeting: May 27, 1977
Board Room

Adjournment:

There being no further business, the meeting adjourned at 4:45 p.m.

Taken and recorded by:


Saeko Whang, Secretary

Approved by:


YUKIO HIGUCHI, Executive Secretary

5/20/77