

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

MINUTES OF MEETING

Date: Friday, June 24, 1977

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

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

Russel Nagata, Deputy Attorney General
Yukio Higuchi, Executive Secretary
Saeko Whang, Secretary
Maizie Hirono, Summer Law Clerk with Attorney General

Charlene Bandurraga, Hawaii Ass'n of Realtors
Mrs. Richard Yoder, Complainant
Iola Rhyne, Applicant for Restoration of Broker License
Thomas K. Lalakea, Applicant for Restoration of Salesman License

Absent: Ah Kau Young, Chairman - out of state
John M. Urner, Member - on island of Maui

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

The Executive Secretary apprised that the agenda for today's meeting was filed on Monday, June 20, 1977 at the Lt. Governor's office in compliance with the Sunshine Law.

Minutes: Upon motion by Tadayoshi Ishizu, seconded by Edwin Shiroma, the minutes of May 27, 1977 meeting were approved as circulated. Motion carried unanimously.

Committee Reports: Real Estate Education Advisory Council

Applications for Real Estate Instructor's Certification

Tom Schmidt, R.E. Broker and Salesman Instructor

After deliberation, Ralph Yagi moved and Tadayoshi Ishizu seconded to approve Tom Schmidt's application for certification as a real estate broker and salesman instructor subject to receipt of DOE certificate. A vote was taken as follows: Yagi & Ishizu - ayes; Shiroma - nay; Texeira - abstained. Motion defeated.

A second vote was taken wherein all the members, including Mary Savio, voted in the affirmative. Motion carried unanimously.

William M. Clew, R.E. Broker & Salesman Instructor

The Executive Secretary reported that William Clew intends to join Aloha School of Real Estate and that applicant meets all requirements with the exception of DOE's approval. Edwin Shiroma moved and Ralph Yagi seconded to approve applicant for certification as a real estate broker and salesman instructor subject to receipt of DOE's certificate of approval. Motion carried unanimously.

Establishment of Real Estate Chair at U. of H.

The Executive Secretary reported that nothing has been concluded on this matter, apparently the U. of H. Board of Regents has not met to give its approval. The signing of the agreement will probably take place after July 15 and Ted Majoures of Trade Publishing Company will write this news item for the Real Estate Commission's bulletin.

S.B.M.P. Advanced Real Estate Courses

The Executive Secretary apprised the members of the Commission that he has prepared a draft of the memorandum requesting Governor's approval for permission to engage the services of consultant. The latest word is that it is awaiting the Governor's consideration.

R.E. Education Officer

Executive Secretary circulated copies of his prepared job description duties of the staff education officer. He requested the commissioners review it and if there are any additions or corrections, he would incorporate them before submitting to the department.

Edwin Shiroma moved and Ralph Yagi seconded that the commissioners should review the proposed duties of the education officer and within 10 days if there are no suggestions or recommended changes, the Executive Secretary to proceed and submit it to the department. Motion carried unanimously.

R.E. Book Donation

Chair reported that she attempted to contact the u. of H. and State library systems to get a proposed list of books but it was a busy time for them.

Executive Secretary suggested that perhaps we should forget it for this fiscal year and donate the books for fiscal year 1977-78. The commissioners concurred with the suggestion.

R.E. Consultant's Report

John Reilly stated that he has no formal report at this time but that he is working on the preliminary outline developing advance courses for brokers' program. He will get the final report to the members before the next meeting.

Laws & Rules Review Committee

Edwin Shiroma reported that he is setting up a meeting to get some ideas and definitions from bonding agencies as well as financial company as there is a definite conflict under our present HPR law wherein a final public report cannot be issued unless the bonding and financial arrangements have been secured. This committee meeting will be held on July 28 at a place where the members will be notified in a memorandum.

Business Out
of Minutes:Questionable ApplicationsIola Rhyne, Restoration of Forfeited License

The Executive Secretary summarized Iola Rhyne's background. After the question and answer period, Vice Chairman Savio thanked Ms. Rhyne for appearing and stated the matter will be taken under consideration.

After a brief discussion, John Texeira moved, seconded by Ralph Yagi to approve restoration of Iola Rhyne's broker license with a recommendation that she read the HPR law and also subject to verification of the division's files that she held a broker's license. Motion carried unanimously.

Thomas K. Lalakea, Restoration of Forfeited License

Thomas Lalakea appeared before the Commission for a question and answer period regarding his denied forfeited salesman's license. He stated that subsequently he has filed, taken and passed the April 23, 1977 real estate salesman examination but would prefer to having his forfeited license restored. Chair thanked Lalakea for appearing and stated the matter will be taken under advisement.

After due consideration, Edwin Shiroma moved, seconded by John Texeira to restore Thomas K. Lalakea's real estate salesman's license subject to examination of the division's records. Motion carried unanimously.

Investigation: RE-75-27 Benjamin Kong (Liliha Square)

The Executive Secretary circulated copies of the proposed settlement agreements submitted by Ben Kong as directed at the May 13, 1977 meeting. There are two offers (1) he will buy the first available unit with a larger parking stall at prevailing market price and exchange with complainant's compact stall or (2) he would be willing to give \$2,000 and Mr. Tong can make the exchange for a larger stall.

Edwin Shiroma moved and Ralph Yagi seconded to approve both proposed settlement agreements. Motion carried unanimously.

RE-76-128 Aiea Lani Corp. (Warren Ho)

At 10:05 a.m., Edwin Shiroma moved and John Texeira seconded to go into executive session. Motion carried unanimously.

Executive session adjourned at 10:45 a.m. Edwin Shiroma moved and Ralph Yagi seconded to reconvene regular session. Motion carried unanimously.

The Executive Secretary read the accepted recommendation report of the Complaint Review Committee which met on June 13, 1977 consisting of Ah Kau Young, Mary Savio, Edwin Shiroma, Deputy Attorney Rick Tsujimura and himself.

1. Proposed Annual Budget

Committee found that the estimated proposed budget was prepared in June 1974 by State Management and not by the developer. The Committee felt that his estimated proposed budget, when prepared, was not too far off. The Committee was of the opinion that the developer had not wilfully intended to misrepresent the maintenance cost, but developer may have been negligent in failing to check the estimated budget to include certain items. Committee recommended warning be given to developer to be more careful in the future.

2. Soundproofing

Committee found that a field change was made and the architect and contractor had recommended the substitute of the acoustical spray (Celhar) in place of the 1/2 inch sound deadening board representation because the developer had advertised "specially insulated sound proof party walls" and "innovative sound proofing material"; and, in fact the purchasers did receive sound proofing of party walls.

3. Differing Sets of House Rules

Committee found no violation of the HPR law and rules because the Committee did not consider House Rules changes to be material changes requiring notification under Section 514-42; nor did the Committee find any misrepresentation, because complainant was given the House Rules which was ultimately adopted by the Association of Apartment Owners and at no time did they rely on the original House Rules filed with the Commission on July 11, 1974.

4. Pool Permit

Committee found no violation of HPR law or rules and regulations.

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5. Pool Furniture

Committee found no violation of HPR law or rules and regulations as there was no evidence that developer made representation of providing pool furniture.

6. Owner/Occupant Versus Tenants

Committee found no violation of HPR law or real estate license law or rules and regulations.

7. Proration of Common Element Expense

Committee found that proration of common expenses was not in accordance with the common interest recited in the declaration. The Committee recommends that the developer be required to go back into the records and recompute the maintenance cost and make proper monetary restitution to anyone financially injured, and warning be given to the developer for failing to exercise proper supervision over the managing agent prior to the take of the project by the association of apartment owners.

8. Method of Quoting Lease Rent

Committee found that the apartment lease clearly and specifically quotes that the lessee is responsible to pay General Excise Tax and buyers acknowledges in item #17 of the Sales Contract that he has examined and approved the apartment lease. Committee found no violation.

9. Barbecue Areas

Committee felt that there was no misrepresentation, because the advertising material only mentions "Bar-B-Que area" and does not mention barbecue pit or pits. Committee felt that developer was only pointing out the possible use when mentioning the "Bar-B-Que area."

10. Dishwasher

Committee found that developer had made misleading advertising but felt that there was no wilful intent to mislead or misrepresent. Nevertheless, the fact remains that the advertisement was misleading and recommended that developer settle this issue by paying purchasers the difference in price between a 2 cycle and 3 cycle dishwasher. The Committee noted that complainant had purchased an already completed unit and had an opportunity to inspect the unit prior to purchase and had not relied solely on the advertising material.

11. Water Heater

Committee found that the specifications calls for a 30 gallon heater and the advertisement mentions a 55 gallon heater, but the developer had upgraded the heater to a 50 gallon heater.

The Committee felt that mention of 55 gallon heater is an error because they weren't aware of any manufacturer manufacturing any 55 gallon heaters. The Committee felt that there was no intent to misrepresent and this was an honest error. Committee recommended that warning be issued to developer to be more careful when placing advertisements in the future.

12. Living Area Square Footage

Committee was of the opinion that there was no wilful intent to misrepresent the square footage because all documents reflect the same error in the total area of apartment type "D". Committee felt that the developer should have used the same language in all documents and advertising materials when showing the total areas. Committee recommended that warning be given to the developer to avoid errors. Committee noted that the complainant was not injured by the error in the total area because the type "C" apartment which they purchased was not in error.

13. Medicine Cabinet

Committee felt that the developer may have misrepresented this item in advertisements but it was felt that no further action, other than a warning should be given because the developer has given more than he had advertised. It was further felt that if the complainant desires, the Commission could recommend that the developer remove the existing mirror and medicine cabinet and replace with a deluxe mirror-medicine cabinet.

14. Landscaping and Irrigation

Committee found that this matter is an association of apartment owners matter and the Commission has no jurisdiction in the matter.

15. Warranty Expiration Notice

The law provides that 90 days prior to the expiration of warranty period, a notice of expiration shall be sent by registered mail to purchasers. Committee felt that the intent of the law is to make certain that such notice is given to purchasers, and since complainant have acknowledged receipt of notice through regular mail, warning should be given to the developer to comply with the statutory requirement hereafter.

16. Master Key

Committee found no violation.

17. Warranty Provisions

Committee found no violation of the HPR law or rules.

Edwin Shiroma moved and Ralph Yagi seconded to accept the recommendations of the Complaint Review Committee on Aiea Lani, RE-76-128. Motion carried unanimously.

RE-76-147 John J. Barabe (Westward Ho Realty, Inc.)

At May 13, 1977 meeting, it was decided to hold a formal hearing on the above matter; however, Bob Klein, Complaints Officer, on June 15, 1977 recommended a letter of warning be sent instead.

Edwin Shiroma moved and Ralph Yagi seconded to accept the Complaints Officer's recommendation.

Upon further discussion, a reverse motion was made by Edwin Shiroma, seconded by Ralph Yagi to have further investigation made to verify the \$1,000 check whether it was directly forwarded to escrow from the purchaser and at what date. Motion carried unanimously.

RE-75-22 (Supplementary Report) Lokelani Construction Co., Inc. and/or Tom Schmidt Realtors

John Texeira moved and Ralph Yagi seconded to defer this matter to have the investigator check whether respondent is in town and to verify whether he did put \$1,000 worth of furnishings. Motion carried unanimously.

RE-77-26 Hiromu Yamanaka Realty, Inc.

At the request of Executive Secretary, Edwin Shiroma moved and Tadayoshi Ishizu seconded to add this matter to the agenda in compliance with the Sunshine Law. Motion carried unanimously.

At May 13, 1977 meeting, the commissioners decided to hold a formal hearing on the matter. A memorandum dated June 22 from Complaints Officer Bob Klein was read by Executive Secretary recommending that a warning letter be sent to respondent instead of holding a formal hearing.

After discussion, John Texeira moved and Tadayoshi Ishizu seconded to accept Bob Klein's recommendation to send a warning letter strongly admonishing that, in the future, if sloppy practices should continue, revocation of license may result. Motion carried unanimously.

CON-76-23 Thomas F. Schmidt

Following the discussion, Edwin Shiroma moved and Tadayoshi Ishizu seconded to hold a formal hearing and designated departmental hearings officer to hear the case. Motion carried unanimously.

RE-76-9 John D. Fulton

After some discussion, Edwin Shiroma moved and John Texeira seconded to have Commission uphold its previous decision of September 30, 1976, that the equipment be in working condition and the complainant to pay the difference in price to obtain full warranty. Motion carried unanimously.

RE-76-159 Landmarks, Inc.

Following discussion, Edwin Shiroma moved and Ralph Yagi seconded to dismiss case with a letter of warning to Landmarks, Inc. to convey true and correct information to the general public. Motion carried unanimously.

RE-77-8 Scott P. Chun

Following discussion, Edwin Shiroma moved and Tadayoshi Ishizu seconded to dismiss case for lack of factual evidence. Motion carried unanimously.

RE-77-11 Midkiff Realty, Inc.

After due consideration, Ralph Yagi moved and Tadayoshi Ishizu seconded to defer matter and to have the Complaints Review Committee review case and, if there is sufficient cause, the Committee be given authority to arrange for an informal conference. Motion carried unanimously.

New Business:

LICENSING

CORPORATION

Grosvenor Properties (Hawaii) Ltd. - 841 Bishop St., #2222, Honolulu
Jack M. Schmidt, Jr., pb

Ralph Yagi moved and Tadayoshi Ishizu seconded to defer action on Grosvenor Properties (Hawaii) Ltd. and to invite the people to come in at the next meeting to discuss this matter. Motion carried unanimously.

Jack Huddleston, Inc. - Lahaina Shopping Ctr., #101 Mauka Bldg.
Arlo J. Huddleston, pb Lahaina

J. R. Real Estate, Inc. - 629 A Kailua Rd., #3, Kailua
Glen E. Holeyfield, pb

Luke & Luke Realty, Inc. - 1221 Kapiolani Blvd Rec-Deck 6A-4, Hon.
Herbert K. C. Luke, pb

Scully Rogers, Ltd. - 2222 Kalakaua Ave., #901, Honolulu
Marion R. Rogers, pb

Trans-America Properties, Inc. - #463 Alexander Young Bldg.,
Mark M. S. Song, pb Honolulu

Frank M. Tsuchitori Realty, Inc. - 98-1247 Kaahumanu St., #214,
Frank M. Tsuchitori, pb Aiea

Ralph Yagi moved and Tadayoshi Ishizu seconded to approve the applications for corporate licenses listed above with the exception of Grosvenor Properties (Hawaii) Ltd. Motion carried unanimously.

TRADENAME

E. Pat Damron - 841 Bishop St., #1919, Honolulu
Edeard P. Damron, dba

Henry Gomes and Associates - 190 S. King St., #1702, Honolulu
Henry A. Gomes, dba

Ken Graeb & Associates - 309 A Hahani St., Kailua
Kenneth A. Graeb, dba

Jo Matheson Broker - 841 Bishop St., #1710, Honolulu
Mary J. Matheson, dba

Poipu Beach Realty - RRL, Koloa
Arthur G. Sheldon, dba

Realty Exchange - 33 S. King St., Honolulu
P. L. F., inc., dba

Jimmy Takemoto Realty - 98-1247 Kaahumanu St., #214, Aiea
Hajime Takemoto, dba

Edwin Shiroma moved and Tadayoshi Ishizu seconded to approve the above applications for tradenames. Motion carried unanimously.

Homeowners For Sale By Owner Counseling Service - 629 A Kailua Rd.,
Margaret A. Lockridge, dba Kailua

Edwin Shiroma moved and John Texeira seconded to defer action on above application since "For Sale By Owner" is misleading and tends to confuse the public. It was further moved to invite applicant to come in at the next meeting to discuss this matter. Motion carried unanimously.

PREVIOUSLY DEFERRED APPLICATION

M. Harvey Co., Ltd. - name changed to Vacation Rentals, Inc.

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

Miscellaneous: Advertisements of Sam Monet (RA)

Several copies of Sam Monet's ads were circulated among the commissioners.

The Executive Secretary was directed to communicate with the investigator to go down to the broker's office and request for his cooperation to have Sam Monet alter his advertisements.

Multi-State Examination Activities

The Executive Secretary apprised the members that he received communication to join Multi-State examination services. No action was taken as the commissioners felt that we will continue the services of E.T.S. for the present.

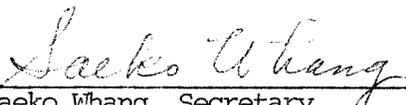
Date of Next Meeting:

Friday, July 29, 1977 at 9:00 a.m.

Adjournment:

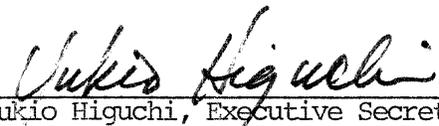
There being no further business, the meeting was adjourned at 3:30 p.m.

Taken and recorded by:



Saeko Whang, Secretary

Approved By:



Yukio Higuchi, Executive Secretary