

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

MINUTES OF MEETING

Date: Friday, January 27, 1978

Place: Board Room, Kamamalu Building
1010 Richards Street, Honolulu, Hawaii

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

Russel S. Nagata, Deputy Attorney General
R. Brian Tsujimura, Deputy Attorney General
Alvin Yamamoto, Investigator
Darryl Y. C. Choy, Departmental Hearings Officer
Yukio Higuchi, Executive Secretary
Saeko Whang, Secretary

Joseph Choy, Director, Small Business Management Program, U. of H.
David A. Heenan, Dean, U. of H., College of Business Administration
Donald Bell, Professor, U. of H., College of Business Administration
John Reilly, Former Educational Consultant

Edward J. Bybee, Attorney representing Bernice Midkiff Bisbee
Donald P. McDiarmid, Applicant for real estate salesman license
Barney Menor, Respondent
Raymond Varde, Respondent
Eichi Oki, Attorney representing Leisure Living, Inc.
John S. Fenton, Herbert K. Horita Realty
Robert M. Pennington, Concepts Unlimited, Inc.
Jon Miho, Attorney representing First Hawaiian Properties, Inc.
Donald S. Robertson, President, First Hawaiian Properties, Inc.
John Dyer, attorney representing Preferred Equities

Call to Order: With a quorum present, Chairman Young called the meeting to order at 9:25 a.m.

The Executive Secretary apprised that the agenda for today's meeting was filed on Monday, January 23, 1978 at the Lt. Governor's office in compliance with the Sunshine Law.

Minutes: Edwin Shiroma moved and Tadayoshi Ishizu seconded to amend the minutes of June 24, 1977 by adding the following motion which was inadvertently omitted under the subject heading RE-76-128 Aiea Lani Corp. (Warren Ho) on page 6 after item No. 17, Warranty Provisions:

"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."

Motion carried unanimously.

Mary Savio moved and Edwin Shiroma seconded to approve the minutes of December 16, 1977 as circulated. Motion carried unanimously.

Committee Reports:

Real Estate Education Advisory Council

Establishment of Real Estate Chair at U. of H.

Dean Heenan gave a status report on the availability of prospective candidates for the Real Estate Chair and circulated his letter of January 27, 1978. He indicated that Dr. Richard Ratcliff has withdrawn his name; Dr. David Sirota will be available from April to May; and Dr. Fred Case is available for the summer of 1978.

Mary Savio moved and Edwin Shiroma seconded to approve the signing of the contracts with Dr. David Sirota and Dr. Fred Case as well as assigning Dr. Case to work on the program review which was previously considered for Dr. Ratcliff. Motion carried unanimously.

Mary Savio further moved and Edwin Shiroma seconded to instruct Professor Bell to proceed with negotiations with Dr. Paul Wendt for the Fall 1978 and as a stand-by to Dr. Case, and should either Dr. Case or Dr. Wendt not be available, to seriously consider Dr. William Kinnard. Motion carried unanimously.

Executive Secretary read several letters from officials of U. of H. expressing their appreciation for the grant of \$50,000 made to the U. of H. for the Real Estate Chair and also expressed their interest in the program culminating in an outstanding fashion.

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

Director Joseph Choy reported that the program has been reviewed and lots of changes were made to the original program and now they are prepared to work with the Commission's Education Committee.

Choy thanked the Commission for going along with this procedure for a quality program.

Mary Savio, Educational Committee Chairman, announced that she will not be available to review the courses. Edwin Shiroma and Chairman Young volunteered to get together with Joseph Choy to review the 5 courses for approval.

Laws and Rules Review Committee

Edwin Shiroma moved and Mary Savio seconded to add this matter to the agenda in compliance with the Sunshine Law. Motion carried unanimously.

Chairman of Rules Review Committee, Edwin Shiroma reported that at the Committee meeting on January 26, 1978, held at Tropic Shores Realty Inc., it was recommended that the Commission form a committee to study the matter of education and experience for brokers licensure. He suggested that the committee be composed of a member from each of the following: S.B.M.P., College of Business Administration, Hawaii Association of Real Estate Schools and Hawaii Association of Realtors; and 2 members from the Real Estate Commission.

Edwin Shiroma added that at the next meeting on February 23, 1978, he would welcome suggestions from the members. He thanked the Executive Secretary for his work in compiling the proposed rules and law changes.

It was decided to defer the selection of the 2 members to the next meeting.

Real Estate Book Donations for 1978

The Executive Secretary announced that it is that time of the year to work on the real estate book donations.

Business Out of Minutes:

Informal Conference on RE-77-11, Midkiff Realty, Inc. & Bernice Midkiff Bisbee

Executive Secretary apprised the members that this matter had been deferred from last month to afford Attorney Edward J. Bybee an opportunity to discuss this matter at an informal conference.

Attorney Bybee stated that his client closed her Honolulu office and intends to maintain her Kauai office with only a secretary and no sales personnel.

Regarding commingling of funds, Bybee stated that a CPA can audit the accounts. His client has changed her business practices to comply with Commission's rules.

After discussion, the Commission concurred that Attorney Bybee and Deputy Attorney General R. Brian Tsujimura get together and furnish the Commission a settlement proposal for the Commission's approval.

The Commission would be inclined to consider dismissal of the charges one year from the date of settlement agreement if no injury has occurred and respondent has maintained her records in compliance with Commission's rules. At the most, the Commission will issue a reprimand. The Commission specified that the auditing expense will be that of the respondent, Mrs. Bisbee.

Donald P. McDiarmid's Request for Informal Conference regarding Denial of his Application for Real Estate Salesman License

At the November 29, 1977 meeting, Commission denied McDiarmid's application for license on the grounds that application was filed beyond the 1 year period after examination.

McDiarmid had requested for an informal conference and waived his rights to a formal hearing.

He explained the circumstances surrounding the situation wherein he did file his application for license in time but was short \$25 fee and did not receive any deficiency notice since he moved a couple of times.

After the question and answer period, Chair thanked McDiarmid for appearing and said the matter will be taken under advisement and he will be notified.

Mary Savio moved and John Urner seconded to approve McDiarmid's application for real estate salesman license. Motion carried unanimously.

Clarke vs. Cassidy, etal - Recovery Fund Case

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

Sidney Ayabe, Real Estate Recovery Fund counsel, in his letter informed the Commission of a court hearing where the Judge reversed his earlier decision and ruled from the heart in favor of plaintiffs. It may be possible that the Judge may direct the Commission to go retroactive and pay up to the maximum liability of \$40,000 for a cause of action which occurred in 1973.

Ayabe advised the Commission to submit a legislative proposal to amend this particular provision setting forth the specific intent of the 1977 Legislature when it increased the maximum liability. He felt that the Legislature had no intent to give the increase in maximum liability a retroactive effect. He suggested further to order a transcript of this hearing and to file an appeal of the Judge's decision.

Mary Savio moved and John Urner seconded to direct Sidney Ayabe to (1) file an appeal; and (2) order the transcript of the hearing. Motion carried unanimously.

Investigations: RE-642 Leisure Living, Inc., Barney Menor and Raymond Varde

Barney Menor and Raymond Varde with their attorney, Eichi Oki, appeared to present oral arguments to Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order and Exceptions to Proposed Decisions. Respondent Barney Menor had submitted earlier for distribution respondent's Exceptions to Hearings Officer's Decisions.

After hearing attorney Oki's oral presentation, Deputy Attorney General R. Brian Tsujimura rebutted his arguments.

Following this discussion, Chair stated that before the Commission makes a decision, the matter will have to be taken under advisement to consult with Commission's counsel and to allow members to review the investigation file. This matter was deferred to the end of the agenda.

RE-565 Read Realty, Inc.

After discussion, Mary Savio moved and Tadayoshi Ishizu seconded to send a letter of warning to Tobias and to close case as recommended by the Attorney General. Motion carried unanimously.

RE-76-136 Robert Miller, Rita Arciero & Laura Light

Hearings Officer Darryl Choy's decision were sent to Prosecuting Attorney Allan Kawada who requested an extension deadline be given in order to file Exceptions on this matter.

Mary Savio moved and Edwin Shiroma seconded to grant extension of 2 weeks to file the Exceptions. Motion carried unanimously.

RE-77-93 Ernest L. Forde

Following discussion, Edwin Shiroma moved and Ralph Yagi seconded to accept the recommendation of the Complaint Review Committee to dismiss complaint on the basis that there appeared to be no violations of the law or Commission's rules. Motion carried unanimously.

RE-77-112 Walter H. Engstrom

After discussion, Edwin Shiroma moved and Tadayoshi Ishizu seconded to refer the matter back to Investigation Branch for further investigation on the 3 points as recommended by the Committee. Motion carried unanimously.

RE-77-138 Marcia Brilhante dba Sunny Side Rentals

Committee recommended (1) a formal hearing on Marcia Brilhante for possible violation of Sec. 467-14 (5, 6, 7, & 8) H.R.S. and (2) an informal conference with Stanley Brilhante for possible violation of Rule 1.3(a) of Commission's rules. Mary Savio so moved, seconded by Edwin Shiroma, and motion carried unanimously.

RE-633 Walter Clark Realty

As requested by Executive Secretary, Mary Savio moved and Ralph Yagi seconded to add this matter to the agenda in compliance with the Sunshine Law. Motion carried unanimously.

Commission received a letter from Complainants' attorney Chang advising that this dispute has been settled and for the Commission to discontinue this matter.

Following discussion, Mary Savio moved and Ralph Yagi seconded to drop the case. Motion carried unanimously.

New Business: LICENSING

CORPORATION

Concepts Unlimited, Inc. - 98-211 Pali Momi St., #405, Aiea
William B. Barrett, pb

Adcock, Ltd. - 1860 Ala Moana Blvd., #414, Honolulu
Betty-Lee Adcock, pb

American Real Estate, Inc. - 2005 Kalia Rd., 2nd Flr, Rainbow
Kenneth B. Myers, pb Bazaar, Honolulu

John Dilks, Inc. - 25 Kaneohe Bay Dr., Kaneohe
John W. Dilks, pb

Hawaii America Investment Properties, Inc. - 745 Fort St., #208,
Felipe G. Pomar, pb Honolulu

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

KACOR Realty, Inc. - 7120 Kalaniana'ole Hwy, Honolulu
Peter V. Yanagihara, pb

George K. H. Lau & Associates, Inc. - 841 Bishop St., #1930, Hon.
George K. H. Lau, pb

Maheda Realty, Inc. - 50 So. Beretania St., #0110, Honolulu
Herman J. Meuron, pb

Pacific Business Engineering, Inc. dba PBE Realty - 190 So. King St.,
Virginia K. Lum, pb #2750, Honolulu

Sunseeker Realty, Ltd. - 1947 So. Kihei Rd., Kihei
Milton C. Preston, pb

Trans-Pacific Realty, Inc. - 700 Bishop St., #301, Honolulu
Stanley H. Young, pb

Chuck Wade, Ltd. - 841 Bishop St., #2010, Honolulu
Charles R. Wade, pb

Waikiki In Kahala, Inc. - 4211 Waialae Ave., #303, Honolulu
Jane M. Muramatsu, pb

Waikiki Leeward, Inc. - 94-366 Pupupani St., #207, Waipahu
Norman N. Akita, pb

Waikiki Residentials, Inc. - 4211 Waialae Ave., #303, Honolulu
Maeleen Y. Oishi, pb

Mary Savio moved and Edwin Shiroma seconded to approve the foregoing applications for corporate licenses. Motion carried unanimously.

Newtown Realty, Inc. - 98-1247 Kaahumanu St., #216, Aiea
Frank S. Nihei, pb

John Reilly, attorney representing Herbert K. Horita Realty, submitted a letter for circulation, requesting the Commission defer action in considering application of Newtown Realty, Inc. inasmuch as his client uses "Newtown Estates" as a tradename. He also advised that this matter may be set for a hearing before the Business Registration Division.

After considerable discussion, Mary Savio moved and Tadayoshi Ishizu seconded to approve Newtown Realty, Inc. as an acceptable real estate corporation until such time there is a notice ordering a name change by the Business Registration Division. Motion carried unanimously.

BRANCH OFFICE

Dolman Associates, Inc. - 794 Kailua Rd., Kailua
Sandra J. Remick, bic

Kauai Realty, Inc. - P. O. Box 475, Hanalei
Thomas L. Alburger, bic

Thomas F. Schmidt dba Tom Schmidt Realtors - Kuakini Professional
Brent Logan, bic Plaza, Kuakini Hwy, 2nd flr, Kailua-Kona

Stapleton Associates, Ltd. - 21 So. Hana Hwy, Kahului
Max E. Sherley, bic

Tropic Shores Realty, Ltd. - Kukui Plaza, 50 So. Beretania St., #C119A,
Peter B. Savio, bic Honolulu

Ralph Yagi moved and Edwin Shiroma seconded to approve the above applications for branch offices. Ayes: Ralph Yagi, Edwin Shiroma, Tadayoshi Ishizu, John Texeira and John Urner. Abstained: Mary Savio for possible conflict of interest in the application of Tropic Shores Realty, Ltd. Motion carried.

TRADENAME

B & B Realty - 1017 Waimanu St., Honolulu
William D. Busk, dba

Reba Coatney Realty - Kona Tradewinds #2A, Kailua-Kona
Reba M. Coatney, dba

Discovery Realty - 1778 Ala Moana Blvd., Honolulu
John D. Mullen, dba

Diversity Realty Co. - 98-1247 Kaahumanu St., #310 D, Aiea
Claybourn L. Pait, Sr., dba

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Richard Fong & Associates - 1517 Kapiolani Blvd., #204, Honolulu
Richard W. W. Fong dba

Wally Greene Realty - 1160 Ala Moana Blvd., Honolulu
Chester W. Greene, dba

HER Honolulu East Realty - 1200 College Walk, #2A, Honolulu
Dorothy Gullicksen, dba

Jewel Realty - 1087 B Young St., Honolulu
Jewel Y. Okamura, dba

Land of Islands Realty - 1100 Alakea St., #410, Honolulu
Michael H. Gisondi, dba

Russ Meyers Realty - West Maui Center, Bx 1045, Lahaina
Russell A. Meyers, dba

Paradise Realty - 1111 Bishop St., #302, Honolulu
Russell Lui, dba

Raymond Realty - 309 Hahani St., Kailua
Suzanne D. Raymond, dba

Edwin Shiroma moved and Tadayoshi Ishizu seconded to approve the above applications for tradenames excepting Paradise Realty on the basis that there is similiarity of name to Paradise Properties. Motion carried unanimously.

Sunny Wong Realty - 1451 So. King St., #204, Honolulu
Sunlin L. S. Wong, dba

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

Mary Savio moved and Edwin Shiroma seconded to approve the above application for tradename. Motion carried unanimously.

CHANGE OF CORPORATE NAME

ARE, Inc. - 2005 Kalia Rd., Rainbow Bazaar, Honolulu
Howard Q. C. Hiu, pb (formerly American Real Estate, Inc.)

Mary Savio moved and John Urner seconded to approve change of corporate name of ARE, Inc. Motion carried unanimously.

APPLICATION FOR LICENSE

Sandra Y. S. Au
Robert M. Costes
Edward J. Damour
Wendell M. Hatada
Alan S. Hayashi

William R. Lounsberry
Shrine F. Racoma
Richard A. Rutsch
Jack A. Stavig
James T. Tsukayama

Mary Savio moved and John Urner seconded to deny applications for license for the above 10 applicants for filing beyond the one-year deadline. Motion carried unanimously.

RESTORATION OF FORFEITED LICENSE

Sanford K. Okura

Ralph Yagi moved and Mary Savio seconded to approve restoration of forfeited license of Sanford K. Okura. Motion carried unanimously.

REINSTATEMENT OF SUSPENDED LICENSE

Benjamin Ayson

The Executive Secretary apprised that Benjamin Ayson's real estate license was suspended from January 1 to January 31. Ralph Yagi moved and John Urner seconded to approve reinstatement of suspended license. The following voted in the affirmative:

Ralph Yagi
Tadayoshi Ishizu
John Urner
Ah Kau Young

The following voted in the negative:

Edwin Shiroma
Mary Savio

Motion carried.

Miscellaneous: December 3, 1977 Examination Results

Edwin Shiroma moved and Mary Savio seconded to accept the list of successful candidates of the December 3, 1977 examination and make it a part of the minutes. Motion carried unanimously.

Telephone Solicitations by First Hawaiian Properties, Inc.

Jon Miho, attorney representing First Hawaiian Properties, Inc. had requested an audience before the Commission in regards to specific guidelines for telephone solicitations. He appeared with Donald S. Robertson, president of First Hawaiian Properties, Inc. and John Dyer, attorney for Preferred Equities.

After the question and answer period, Chair stated the matter will be taken under advisement and thanked the above people for appearing before the Commission.

Following discussion, Edwin Shiroma moved and Tadayoshi Ishizu seconded that upon receipt of a petition for a declaratory ruling from Miho, the Commission will issue a declaratory ruling. Executive Secretary was directed to write Miho on this matter. Motion carried unanimously.

Fay K. Kailikini's Request for Waiver of Salesperson Education Requirement

Fay Kailikini requested a waiver from completing the approved pre-license real estate salesman course at an accredited real estate school.

After discussion, Edwin Shiroma moved and John Urner seconded to deny her request on the basis that the approved real estate salesman course she took were more than 2 years back, and the other courses or seminars she completed were more finance type courses rather than real estate sales courses. Motion carried unanimously.

Gilbert T. Fujiyoshi's Request for Waiver of Salesperson Education Requirement

Gilbert Fujiyoshi requested a waiver of the real estate salesman education requirement based on his earning the SRA designation.

After a short discussion, Edwin Shiroma moved and Tadayoshi Ishizu seconded to approve waiver of the education requirement. Motion carried unanimously.

Correspondence: Real Estate Schools Association of Hawaii

Hilda Morse, Secretary of Real Estate Schools Association of Hawaii, in her letter of January 4, 1978, informed the Commission of the newly elected officers of RESAH. She requested for an up-to-date report of the home study courses that the Commission had approved.

The Executive Secretary was directed to acknowledge letter and inform Morse that we have no statistical report since we adopted the guidelines for home-study courses.

John Reilly's Letter Regarding Real Estate Education Grants

The Executive Secretary was instructed to acknowledge John Reilly's letter of December 29, 1977 regarding real estate education grants. The letter will be referred to the Education Advisory Committee for future reference.

Announcement: 1978 Midwest-Western District Joint Conference

The Executive Secretary reported that the 1978 Midwest-Western District Joint Conference will be held on June 18-21, 1978 in Chicago, Illinois. The following were tentatively selected to represent Hawaii:

Executive Secretary
Mary Savio
Russel Nagata (if possible)
Ralph Yagi, 1st alternate
Kauai member, 2nd alternate

Deferred Matter:

This matter had been deferred earlier. Chair excused John Texeira in order to catch his plane.

RE-642 Leisure Living, Inc., Barney Menor and Raymond Varde

At approximately 5:30 p.m., with Deputy Attorney General Russel Nagata present, Edwin Shiroma moved and Ralph Yagi seconded to accept the recommendation of Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order and Exceptions to Proposed Decisions. A vote was taken. Ayes: Edwin Shiroma and Ralph Yagi
Nays: John Urner and Tadayoshi Ishizu Abstained: Mary Savio
Motion defeated.

John Urner moved and Tadayoshi Ishizu seconded to defer this matter to the next Commission meeting. Motion carried unanimously.

Next Meeting: The next Commission meeting will be held on February 24, 1978, at 9:00 a.m., in the Board Room.

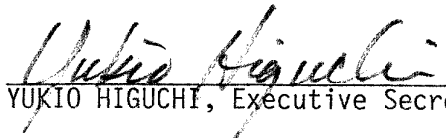
Adjournment: There being no further business, the meeting was adjourned at 5:35 p.m.

Taken and recorded by:



Saeko Whang, Secretary

Approved by:



YUKIO HIGUCHI, Executive Secretary