

SUMMARY OF PROCEEDINGS  
SEVENTH MEETING OF 1961  
REAL ESTATE COMMISSION  
DEPT. OF TREASURY AND REGULATION  
STATE OF HAWAII

August 16, 1961

Chairman Chaney, presiding, called the meeting to order at 8:15 a.m., in Room 205, Empire Building, Honolulu, Hawaii.

Present were: Aaron M. Chaney, Chairman  
Dorothy S. Ahrens, Kauai Member  
Yukio Kashiwa, Oahu Member  
Jack K. Palk, " "  
Erling P. Wick, Maui Member  
Hirotoshi Yamamoto, Oahu Member  
Robt E. Bekeart, Executive Secretary

Excused: Charles C. Cross, Hawaii Member

ORDER OF BUSINESS

Chairman opened the proceedings by announcing that the meeting should adjourn at approximately 4:30 p.m. The agenda includes two hearings and the handling of necessary administrative and policy matters.

MINUTES OF THE PREVIOUS MEETING

Mrs. Ahrens moved the approval of the June 27, 1961 minutes as circulated. Mr. Yamamoto seconded and motion carried.

FISCAL REPORT

Mr. Kashiwa moved, seconded by Mrs. Ahrens, that the financial statement for June 30, 1961 as circulated be approved and placed on file. Motion carried.

CONFIRMATION OF LICENSES

Mr. Yamamoto moved, Kashiwa seconded, that the following broker licenses issued under Executive Secretary's tentative approval be confirmed. Motion carried.

New Corporations:

KAUAI RESORTS DEVELOPMENT, INC. - Clinton Shiraishi, RPB  
HARCLIFF CORP. dba HARCLIFF REALTY - Harold C. Schnack, RPB

DBA's:

Iwao Jyo dba KONA REALTY COMPANY  
Walter C. Wong dba TRADEWIND REALTY  
Thomas Beveridge dba INTER-ISLAND REALTY  
Thomas Takeuchi dba INTERNATIONAL PROPERTY EXCHANGES

JULY EXAMINATIONS

a. In the matter of Kauai applicants filing late for July 15 salesman test Mr. Palk moved, seconded by Mrs. Ahrens, that a letter be sent to prospective employing broker, Alexander H.F. Castro, indicating the circumstances under which the two applications were approved for the examination. Notice was to be given the employer-sponsor of the fact that the Commission is displeased where applications are filed late and the excuse is not of a serious nature.

August 16, 1961

Page two

Voting "aye" - Chaney, Ahrens, Palk and Yamamoto; Abstaining - Kashiwa and Wick. Motion carried.

b. Chairman reported on salesman applicant Deen I. Morita's written statement explaining the applicant's conduct at the test site on July 8, 1961 during which time the Executive Secretary, proctor in charge of the examination, disqualified applicants Morita and McKenzie. The members supported the July 14, 1961 position of the Chairman in his letter to Mr. Morita. Mr. Palk moved, Mr. Wick seconded, the motion that Deen I. Morita and Mrs. Marie McKenzie be permitted to take the October examination at no additional fee expense. Motion carried.

c. Mr. Wick moved, Mr. Yamamoto seconded, that examination results in the Executive Secretary's August 2, 1961 report to all commissioners be approved. Having found to be qualified in the required written examination, licenses will issue to Salesman candidates 1 through 62 and Broker candidates 1 through 12. Earlier polling of members considered. Motion carried.

#### R E C E S S

Chairman ordered a short recess at 9:10 a.m. in order to prepare the chamber for hearings.

#### FIRST HEARING

At 9:15 a.m. the Chairman called the hearing to order and the members heard the case in the matter of the REAL ESTATE COMMISSION vs RUFIO H. GANIR and BENJAMIN AYSON. A copy of the transcript of proceedings is made an official part of these minutes.

At approximately 12:10 p.m. the first hearing was concluded. The findings of fact and the commission's decision to follow. Mr. Kashiwa was excused for balance of agenda. Chairman declared a short recess for noon meal.

#### SECOND HEARING:

At 1:40 p.m. the Chairman called the hearing to order and the members heard the case in the matter of the REAL ESTATE COMMISSION vs PAUL J. KOTERBA and GEORGE K. YAMASHIRO. A copy of the transcript of proceedings is made an official part of these minutes.)

At approximately 3:00 p.m. the second hearing was concluded. The findings of fact and the commission's decision to follow. Chairman ordered a return to the administrative portion of the agenda.

#### NEW LEGISLATION

Treasurer's August 14, 1961 letter to Chairman in which he suggested that a written proposal be forwarded him on the commission's plan to hire legal counsel was reviewed.

The commissioners were in agreement that the anticipated complexities of administering the subdivision and condominium laws required the guidance and counsel of an experienced attorney.

Various methods of employing a law expert were discussed. The members concurred in the Treasurer's suggestion that consideration be given to the hiring of an attorney on a retainer contractual basis at some stated hourly rate.

Several attorneys' names were proposed. Knowing the broad experience and background in state and municipal legal departments of Henry H. Shigekane, Mr. Palk moved, seconded by Mrs. Ahrens, that the Commission seek his employment under a contract arrangement. Mr. Shigekane would be hired to work with the Executive Secretary and the Commission in formulating an effective system for the registration and regulation of condominium and subdivision projects.

The Executive Secretary was directed to pursue this matter further in order that this proposal could be advanced to the department head and the Attorney General. He is to prepare the necessary letters, forms and contracts for the Treasurer and the Attorney General and seek their respective approval.

The Chairman expressed concern that we may unknowingly be the cause of delay for parties wishing to register their projects in order to offer them for sale. He stated that there are existing cooperative apartment undertakings that may want to convert to horizontal property regimes.

#### REORGANIZATION

Chairman briefed members on the status of the administration's plan to divest the commission of ministerial functions in areas of applications, examinations, records-keeping and investigations. He reported on the efforts of the Honolulu Realty Board to arrange for a meeting with Governor Quinn upon his return to Hawaii. As this July 31, 1961 meeting did not come to pass, the commissioners agreed that a delegation should call on the Chief Executive and hear his reaction to the proposal of seeking divisional status for the Real Estate Commission.

A meeting with Governor Quinn for the morning of Monday, August 21, 1961 was proposed. Mr. Wick was selected to represent neighbor island commissioners, Chairman, Mr. Palk and Executive Secretary to represent commission, while Lowell Christensen was selected to represent the industry.

#### 1961 NALLO CONFERENCE

Executive Secretary capsulized the Treasurer's August 8, 1961 reply to the Chairman's request for eight representatives of the Commission to attend the national meeting. The members recalled a October 26, 1960 meeting with Leo Pritchard, Administrative Director, when a delegation of eight was approved, but on the urging of the executive chambers it was agreed that a minimum number would attend the Dallas conference.

In the present situation the members believed that their position should be one of principle. The Executive Secretary was directed to revise the earlier request and seek approval for five delegates to attend the September 12 through 16 meeting. Mr. Wick moved, Mr. Yamamoto seconded, that the Chairman submit a revised request for out-of-state travel for five representatives to attend the 33rd Annual NALLO Conference. Executive Secretary was advised to expand the justification section of the request against the several topical areas on the conference program which are of special interest and concern to this state. Using the October 26, 1960 formula it was agreed that the commission delegates would be: Chaney, Ahrens, Yamamoto and the Executive Secretary. An effort would be made to seek Mr. Palk's attendance.

DEAN WERMEL'S PROPOSAL

Executive Secretary reported on progress made towards acceptance of Dean Wermel's proposal of June 27, 1961. The Dean's paper had been circulated to all members and Professor Bell conferred with Lowell Christensen and the Executive Secretary on the status of academic machinery to commence the "Characteristics and Performance Study."

Chairman suggested that the members give Dean Wermel's proposal serious study and come forward at next meeting with some resolution or decision.

At 5:00 p.m. the Chairman declared a recess and ordered the Commission to reconvene in the office of the Attorney General at 10:30 a.m. Monday, August 21, 1961.

R E C E S S

Chairman Chaney called the meeting to order at 10:30 a.m., Monday, August 21, 1961 in the conference room of the Attorney General, Old Archives Building.

Present were: Aaron M. Chaney, Chairman  
Jack K. Pal, Member  
Erling P. Wick, Member  
Hirotooshi Yamamoto, Member  
Robt E. Bekeart, Executive Secretary

In reply to an earlier suggestion, the members met with the Attorney General, Mr. Kashiwa, and the Deputy Attorney General, Mr. Arthur S.K. Fong, to review two important cases now before the Commission.

a. VANNATTA REALTY COMPANY, LTD (WAIKIKI CABANAS Project)

Chairman reported on the status of the Commission in regards to this development project. Shiro Kashiwa reviewed the processing of this case from the time it was brought to his attention by the Commission's administrator. He noted that his investigators had conferences with the developer, William Vannatta, and subsequent meetings were held with the former principal broker, Paul Arizumi. The developer and his associates had given the Attorney General reason to believe that the WAIKIKI CABANAS building was to be erected. The report was given that building supply firms and material houses had assured Vannatta of lenient credit in order to have him complete the project. Steel framework, fabricated and brought in from mainland after shipping strike, was going up on the site.

Mr. Kashiwa and Mr. Fong spoke to the subscription contract or offer to purchase instruments as being one heavily in favor of the developer. They were of the opinion that Vannatta had the buyers' authority to use deposit money for engineering, promotion and construction costs.

As the cooperative apartment market is now realizing a slow, but gradual return to a better reputation, the Attorney General favored a course of action which would mean letting the developer proceed with construction and not force a disciplinary issue with the licensees involved. At a future date he feels the conduct and operations of the licensees, as well as the development group, should be carefully investigated for violations of law.

The State's highest legal officer assured the members this does not preclude his further investigation into the case at a later date.

b. CENTRAL REALTY, INCORPORATED (BEACHWALK TERRACE Project)

The Attorney General stated that he has an interest in this case and directed his staff to study it for possible violation of the criminal statutes. The contractor Samuel J. Falzone has the special attention of the Attorney General in his position as performing advance fee services to assist development group in securing financing. Mr. Kashiwa suggested to Mr. Fong that a way should be studied to start disciplinary action against Falzone who holds a Hawaii contractor's license.

On the constructive side, Mr. Kashiwa mentioned a conference with Clarence Hamaishi and the promise of this principal that a strong effort would be made to return the depositors' monies. Hamaishi gave the Attorney General oral assurance that arrangements have been made to effect restitution of funds placed in the control of licensees. Mr. Kashiwa noted to Mr. Fong that a progress check should be made on this proposed system of returning monies to determine if it is being carried out.

The Attorney General is of the opinion that the actions and conduct of the licensed broker in the original marketing of BEACHWALK TERRACE units can stand investigation. The matter of proper escrowing of depositors' monies was pointed to as an area in which formal charges might be made against licensees involved.

c. ACME REALTY, INCORPORATED (EBBTIDE HOTELS Project)

This file was discussed from the standpoint that the Commission was continuing its plan of monitoring projects within the hotel system. There was agreement that with an improved occupancy percentage as a result of increased summer visitors the developers may be in a position to change debit statements to one reflecting credits--thereby decreasing causes for complaints by many purchasers. The profit or loss picture is not of concern to the members, but the case was left on the table with the idea that the Commission staff would continue the surveillance of the EBBTIDE HOTEL chain.

At the conclusion of the review with the Attorney General on the above cases the Chairman requested Mr. Kashiwa to advise the Commission in writing of the status of cases involved. The Attorney General directed Mr. Fong to prepare a memorandum report for the Commission on VANNATTA REALTY and CENTRAL REALTY

At 11:15 a.m. the meeting adjourned to reconvene at the House Judiciary Committee meeting room in the basement of Iolani Palace.

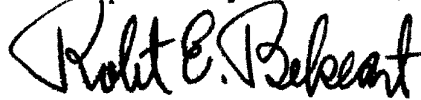
In concluding the enforcement portion of the agenda the commissioners were agreed that there should be a plan of action undertaken where each principal broker in the files discussed with the Attorney General today should be invited to come before the assembled commission and in an atmosphere of informality, but with a court reporter present, answer such questions as the members may want to ask on the status of certain projects and more particularly on the licensee's understanding of his role as a fiduciary in these developments.

In addition to the three cases discussed with Mr. Kashiwa and Mr. Fong, it was agreed that EVE LYNN REALTY (TIKI GARDENS subdivision) would also be the subject of conference between licensee and Commission.

August 16, 1961  
Page six

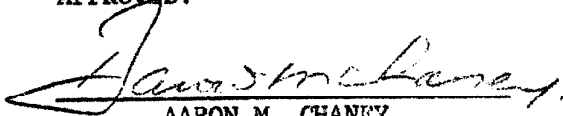
The meeting adjourned at 1:00 p.m. and preparation was made to meet with the Governor at 3:00 p.m. to discuss the departmental re-organization.

Respectfully submitted,



Robt E. Bekeart  
Executive Secretary

APPROVED:



AARON M. CHANEY  
Chairman