

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

MINUTES OF MEETING

Date: Tuesday, May 23, 1967

Place: Conference Room, 424 South Beretania Street, Honolulu, Hawaii

Present: Jack K. Palk (Oahu) Chairman Hiromu Yamanaka (Hawaii)
Harold J. Silva (Oahu) William H. C. Young (Oahu)
Robt E. Bekeart, Executive Secretary

By Invitation

H. Dickey Thacker, representing Honolulu Board of Realtors

Absent: Yukio Kashiwa (Oahu) Vice Chairman - excused
Tom L. Peterson, Deputy Attorney General - excused

No appointed representatives from County of Kauai or County of Maui.

Call to Order: There being a quorum, the Chairman called the meeting to order at 10:05 a.m.

Minutes: UPON MOTION, the Commission approved the minutes of the April 20, 1967 meeting as distributed.

Motion carried unanimously.

Business Out of Minutes: LICENSING (Sec. 170-1. through 170-14.)

RE-248 HAWAIIAN PARKS SUBDIVISION and HAWAIIAN BEACHES SUBDIVISION - With the Chairman's approval, Mr. F. E. Scheiderich, developer of the two offerings investigated and his counsel, Mr. John T. Ushijima appeared, on invitation, before the Commission. The Chairman directed that proceedings, being of an investigative nature, be conducted in executive session. The motion was duly seconded and carried unanimously.

Mr. Ushijima, attorney, speaking on behalf of his client, stated that their reason for asking for a conference with the Commission was the receipt of the desist and refrain letter sent May 17, 1967 to Mr. Scheiderich. Counsel acknowledged that they do not want to evade the real estate licensing statute and regulations, they are not denying the authority vested in the Commission and they accept the October 3, 1965 ruling of the Attorney General regarding the use of powers of attorney as a means to circumvent the license law.

Mr. Scheiderich explained the arrangement under which his sales staff of approximately eight persons negotiates the sale of lots from different locations in and around the Waikiki area of the

city. He stated that bringing this merchandising campaign to an abrupt halt, particularly at the commencement of summer visitor season, would cause a severe economic hardship to his sales force. Effort was being made to provide training for these persons in order to have them make application for and qualify in the July real estate salesman examination. The Chairman queried Mr. Scheiderich on the details of his program to license the sales personnel and the activities planned for these people if and when they meet all the requirements of the licensing statute. The regulators were interested, also, in Mr. Scheiderich's proposal to keep his selling plans active, with unlicensed personnel, until compliance with law and regulation is effective.

Mr. Scheiderich and Mr. Ushijima, having concluded their presentation, withdrew.

UPON MOTION, the Commission ruled that in view of the position of the subdivider to comply with the May 17, 1967 warning letter and that an immediate disruption of an established merchandising program would cause an economic hardship on the sales personnel of HAWAIIAN PARKS and HAWAIIAN BEACHES subdivisions, the Commission will grant a stay of action on its part for a period of three months from today, or until such time as the present sales force qualifies for license as applicants in the July 21, 1967 examination.

Motion carried unanimously.

RE-218 IWAO WALTER FURUYA and ARTHUR M. FUJITA

The Chairman noted that the May 16, 1967 letter from the respondents' counsel had been distributed to the membership. After reviewing Mr. Albert W. Evensen's letter and discussing the history of the encumbered CYMBIDIUM ACRES SUBDIVISION, the proceedings before Hearing Officer William H. C. Young and the March 21, 1967 order revoking the real estate broker licenses of Mr. Furuya and Mr. Fujita, the members conferred on the recently published investigation report, RE-254 IWAO WALTER FURUYA, on the complaint filed by Donald N. Everett, Cincinnati, Ohio, alleging that he has purchased and made full payment for a lot in the subject subdivision, but as of April 28, 1967 no deed has been received even though written demand had been made on the subdivider for evidence of title.

UPON MOTION, the Commission decided to suspend the execution of the order revoking the real estate broker licenses of Iwao Walter Furuya and Arthur M. Fujita pending their satisfactory performance under a settlement program with Harold Y. Tochiki, Juichiro Tochiki and Hanayo Tochiki as agreed to and made a part of the investigation file by the respondents' attorney, Mr. Evensen, and the

Tochiki's attorney, Mr. Robert Kimura. Further, the program of settlement with the complainant, Mr. Everett, as presented by the respondent's attorney, Mr. Evensen, shall become effective and satisfactory to the purchaser.

Motion carried unanimously.

The Commission will periodically review the respondents' attention to and performance under the accepted settlement programs. It will at such times determine whether Mr. Furuya and Mr. Fujita are living up to the obligations of said programs and whether the order of revocation of licenses is to be reinstated or the possibility of a suspension of registration considered.

The decision of the Commission is to embrace the conduct of Mr. Furuya and Mr. Fujita as reported in RE-218 (TOCHIKI) and RE-254 (EVERETT).

LUCILLE BUNN

The Planning Department, City and County of Honolulu, has advised the Commission, in response to its earlier request, that a real estate office is not a permitted use in an Airport District. The licensee is to be advised accordingly.

JONATHAN MANOR, INC.

The same municipal authorities, having received the Commission's advisement on the transfer of the principal place of business of subject broker, reported that their investigative staff has this matter for processing.

SUBDIVISIONS (Sec. 170-30. through 170-38.)

TAHOE KEYS UNIT I

MT. TALLAC VILLAGE I

TAHOE KEYS UNIT II

MT. TALLAC VILLAGE II

ST. MORITZ ISLE

The Executive Secretary reported that a conference had been held with Mr. Ronald W. S. Tom, Dillingham Corporation, before his departure for the Tahoe Keys Development site. The Commission's administrative standards for accepting the required documents and exhibits with subdivision registration statements have been satisfied.

SPRING HILL UNITS 1, 2, 3, 4, 5, 6 and 7 SUBDIVISIONS

Mr. Young reported his findings and recommendations on examination of the seven Hernando County, Florida offerings.

UPON MOTION, the Commission accepts as complete the Subdivision Registration Statements on the above out-of-state projects.

Motion carried unanimously.

CONDOMINIUMS (Sec. 170A-1. through 170A-44.)

<u>PROJECT</u>	<u>REGISTERED</u>	<u>PRELIM.</u>	<u>FINAL</u>	<u>SUPPL.</u>
Maunaihi Tower No. 161	12/15/66	4/26/67		
Pawaa Garden No. 162	12/15/66		5/3/67	
Pomaikai No. 163	3/10/67	5/11/67		
Wailehua Apartments	1/26/67		Pending	
Kapiolani Terrace	1/26/66	Pending		
Hale Kai II	3/10/67		Pending	
Windward Villa No. II No. 132	10/22/65			Pending
Terrace Tower No. 84	5/12/65			Pending
Golflinks Apartments	3/29/67		Pending	
Waipehe Apartments	4/4/67		Pending	
Wailana At Waikiki	4/13/67	Pending		
Alewa-Lani Estates	4/24/67	Pending		
Hale Kai O' Kihei	5/5/67		Pending	
Ala Kimo Condominium	5/9/67		Pending	

Note: ACADEMY TOWER, registered August 4, 1966 on which Preliminary Report No. 156 was issued November 3, 1966, has been modified by a Final Report signed by the Chairman. As Developer has failed to complete a full disclosure, the report has been set aside.

The Commission accepted the above information and data on Horizontal Property Act registrations.

New
Business:

LICENSING

NEW CORPORATIONS, PARTNERSHIPS, DBAs and BRANCH OFFICES

<u>Corporation</u>	<u>Principal Broker</u>
United Hawaiian Realty Corporation	Arthur H. Rodrigues
Circle Realty, Inc.	Leonard Dillenbeck
Far-Mac of Hawaii, Inc.	Robert Y. Yamada
Kahana Realty, Inc.	Edgar D. Crumpacker
Yoneji Realty, Inc.	Takeo Yoneji

Partnership

(None)

DBA

Ted Maciejewski	dba	Ted Mack Realty
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UPON MOTION, the Commission ruled that the license processings immediately above, as tentatively authorized by the Licensing Administrator, be approved and entered of record.

Motion carried unanimously.

REVIEW OF APPLICATIONS FOR SALESMAN LICENSE

HOWARD A. PRYOR - note was made of the August 29, 1966 action of voluntary bankruptcy.

UPON MOTION, the Commission decided to accept with approval the application for issuance of a real estate salesman license.

Motion carried unanimously.

ROY A. CRAW, JR. - having scanned the Abstract of Criminal Record, made a part of his request for reinstatement of a forfeited real estate salesman license, the members discussed courses of action that could be taken.

UPON MOTION, the Commission decided to deny the applicant the right to reinstate the subject forfeited license based on its review of the Abstract of Criminal Record involving moral turpitude.

Motion carried unanimously.

The applicant is to be advised that under his rights, he is entitled to request a hearing before the Commission under the Hawaii Administrative Procedure Act. The Executive Secretary is to meet with the applicant, Mr. Craw, and counsel him on the alternatives open to him under the above decision.

SUBDIVISIONS

UPON MOTION, the Commission accepts as complete the Subdivision Registration Statements on the following projects:

HARBOR VIEW SUBDIVISION UNIT V - Hoaeae, Waikale, Ewa, Honolulu, Hawaii; 151 residential lots; developer - HSM Ventures (Shigeru Horita and Iwao Kishimoto), 2024 N. King Street, Honolulu, Hawaii; selling broker - Herbert K. Horita Realty, Inc.

CROWN TERRACE TRACT 2 UNIT 1 - Heeia, Haiku and Kahekili Highway, Koolaupoko, Honolulu, Oahu, Hawaii; developer - Qualpac, Inc. (Philip Ing, Vice President), 200 James Campbell Bldg., Honolulu, Hawaii; selling broker - Bishop Realty, Inc.

KOKO HEAD TERRACE, UNIT II - Hawaii-Kai, Maunalua, Honolulu, Oahu, Hawaii; 116 residential lots; developer - Koko Head Land Company (R. C. Longmire, Member, Management Committee), 404 Piikoi Parkway, Honolulu, Hawaii; selling brokers - Pete Kimura Realty, Charles Kimura, Realtor.

LAKESIDE UNIT IV SUBDIVISION - Salt Lake, Moanalua, Honolulu, Oahu, Hawaii; 106 residential lots; developer - International Development Co. (Donald K. Iwai, Its Attorney), 32 Merchant St., Honolulu, Hawaii; selling broker - Loyalty Enterprises, Ltd., Calvin Lum.

Motion carried unanimously.

Investigations:

RE-231 RONALD INABA - Mr. Silva, Hearing Officer, reported that no disposition has been made of this matter pending receipt of additional information from out of state. Deferred to the next meeting.

RE-234 ELIOT MAGOUI dba MAGOUN REALTY - Complainant advised that Commission found no violation of existing statute or regulation. Closed.

RE-235 WINDWARD OAHU REALTY - Complainant advised by Chairman's letter of April 25, 1967 finding no breach or violation of law or regulation as alleged. Closed.

RE-236 ROBINSON & LOWE REALTY, INC. - Complainant advised that reasonable doubt exists as to whether there was a knowing intent by the respondent to misrepresent the facts. On the information in the investigation report, the Commission found no violation of law or regulation. Closed.

RE-237 WAINALU TERRACE CONDOMINIUM - Attorney for respondent requests 60-day extension in order to effect a program that would be in compliance with the Commission's stated position of March 21, 1967. Extension is granted. File to remain active.

RE-238 ROYAL ESTATES SUBDIVISION - Developer acknowledges unintentional breach of subdivision registration law by failing to submit the required documents and exhibits for Commission examination. The subdivider of the County of Kauai assures the regulators that a registration will be effected. File to remain active.

RE-239 DUANE M. RUGGLES - The respondent, having departed this jurisdiction, has not acknowledged the Commission's warning letter of April 17, 1967 in which a program of qualifying as a licensee was presented. On the advice of counsel, the respondent's employer has withdrawn the power of attorney under which the investigation was initially launched. Closed.

RE-240 LANIKAI INVESTMENT COMPANY - Handled administratively by the Executive Secretary. Closed.

RE-241 EDWARD J. BOSSING - Assembling evidence of the power of attorney operation to the satisfaction of Deputy Attorney General Peterson. File to remain active.

RE-242 KARL EMBREY

(Same disposition as RE-241 immediately above.)

RE-243 RICHARD DE ROY - The investigation indicates that the respondent, acting under the owner exception provision, erred in showing the property he owned and was offering for sale. The narrative reflects that the complainant agrees that the respondent gave them adequate information and details, but in pointing to a lot at the site he applied it to the wrong property. On another visit to the subdivision, the respondent, on the request of the prospective purchasers, paced off the boundary of the lot shown them formerly and told them at once that he had been mistaken in his earlier identification of the land. The complainant is to be advised of the Commission's position on this, that the respondent, from all indications, made an unintentional mistake. Closed.

RE-244 VIPS, INC. - The Attorney General, under OP. NO. 67-15 has advised that this advance fee rental scheme where a corporation collects names of landlords and obtains prospective tenants by advertising in the real estate section of the newspapers does not violate Sec. 170-6., R.L.H., 1955, amended.

RE-245 RUTH THOMPSON dba KOKUA REALTY - The oversight of registering the new doing business as entity in Kailua, County of Hawaii, has been corrected by administrative action. Closed.

RE-246 TRUSTCO REALTY, INC. - In answer to the respondent's request, the Commission approves an extension to June 19, 1967 in order to comply with the May 5, 1967 order.

RE-247 "MATT" SIMMONS - The unlicensed activity, as reported to the staff by the Chairman, has been halted. The respondent left the jurisdiction. Closed.

RE-248 HAWAIIAN PARKS SUBDIVISION and HAWAIIAN BEACHES SUBDIVISION
(Processed at the beginning of the meeting.)

RE-249 JOSEPH WOO and TRUSTCO REALTY, INC. - On the facts and information in the investigation report, the Commission is of the opinion that there is no intention by the respondent to deceive or mislead the buyer. If the complainant has thoughts of getting corrective treatment on the transaction in question, she should be advised to seek the services of a competent attorney.

Recess: At 11:50 a.m., the Chairman declared a break for the noon meal.

Reconvene: At 1:10 p.m., the Chairman reconvened the meeting.

Investigations: RE-251 OCEANSIDE PROPERTIES, INC.
The Executive Secretary reported that the Chairman was being kept advised of developments in the proposed reorganization of the companies. Through other channels, the Chairman has kept abreast of the Developer's problems, efforts to reorganize and the matters before the United States District Court, District of Hawaii, with Honorable Nils Tavares, Judge, presiding.

RE-254 IWAO WALTER FURUYA
(Processed at the beginning of the meeting with RE-218.)

WATUMULL INVESTMENT CO.

The respondent firm acknowledged receipt of the Executive Secretary's warning letter of May 16, 1967. On May 18, 1967, a representative of Mr. David Watumull, President, Watumull Investment Co., came to the Commission office and reported that through an oversight they believed their Hawaii County properties were being sold through a properly licensed branch office of Portrait of Homes, Inc. The error has been corrected, a branch office license has been issued in compliance with law and regulation.

HAWAIIAN OCEAN VIEW ESTATES

A similar warning letter of May 17, 1967 was sent to Jack B. Crawford, Secretary-Treasurer of the respondent firm in Long Beach, California. The misunderstanding the exemptions under the Real Estate License Law, particularly in the scheme of giving powers of attorney, was pinpointed as an operation that should cease.

The program to seek the subdivider's compliance with effective law and regulation is a matter of continuing discussions with Mr. Peterson, Deputy Attorney General. The present objective is to accumulate copies of the powers of attorney in use by the subdivider, in Honolulu and Kailua-Kona, and then try to secure reliable testimony from purchasers who bought from the unlicensed salesman. File is to remain active.

Miscellaneous:

1967 LEGISLATIVE PROGRAM

The Chairman summarized the results of the Commission's legislative efforts, along with the activities of the Honolulu Board of Realtors, in the recently adjourned General Session, Fourth Legislature.

Of particular interest to the Commission is the passage of the Recovery Fund Act (H.B. No. 777), the Uniform Land Sales Practices Act (H.B. No. 35) and amendments to the Horizontal Property Act (S.B. No. 695). The bills are presently before the Governor for his consideration and approval.

Other bills, of lesser importance to the Commission, involving Horizontal Property Regimes were reported on by the Chairman. Exempting sale of condominium apartments from the Uniform Sale of Securities Act was passed (H.B. No. 1005). Home exemption provisions for apartment owners in Horizontal Property Regimes project was also passed (H.B. 990).

MAY 19, 1967 LETTER INQUIRY ON BROKER COMMISSIONS

The Commission acknowledged receipt of a letter from party identified as "Consumer" who asked a question on whether a broker has the responsibility for closing a transaction, and if a deal is closed by an escrow agent, should not the broker charge a lower fee.

The Commission ruled that they do not have jurisdiction or control over the charging of fees for services such as escrowing. Such matters are negotiated or arranged between the public and the licensees involved.

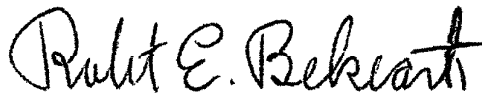
Date of Next Meeting:

In response to the Deputy Attorney General's suggestion, the Commission agreed to shift its meeting days from the third week of each month, to the fourth.

Next meeting is at 10:00 a.m., Tuesday, June 27, 1967 in Honolulu.

Adjournment:

There being no further business before the Commission, the Chairman declared the meeting adjourned at 2:40 p.m.



ROBT E. BEKEART
Executive Secretary

APPROVED BY THE COMMISSION:

JACK K. PALK, Chairman

REB:sw
6/22/67