

Minutes of the Meeting
of the
REAL ESTATE LICENSE COMMISSION
OF THE TERRITORY OF HAWAII

July 10, 1952, at the offices of the Commission, Rooms 109 and 121,
Honolulu Armory, corner of Hotel and Miller Streets, Honolulu, T. H.

Present: Eaton H. Magoon, Chairman
John K. Akau, Jr., Member
Stephen K. Miyagawa, Administrator

The regular monthly meeting of the Real Estate License Commission of the Territory of Hawaii was called to order by Mr. Eaton H. Magoon, Chairman, at 9:00 a.m., at the offices of the Commission, Rooms 109 and 121, Honolulu Armory, corner of Hotel and Miller Streets, Honolulu, T. H. The reading of the minutes of the previous meeting was dispensed with. The order of business and the actions taken were as follows:

ORDER OF BUSINESS
Old Business

Oral Examination Given to
Frank T. Takao and Harry E. Young

At the last special meeting of the Commission which was held on June 23, 1952, a number of salesman and broker applicants, whose grades were very close to the minimum passing grade, were questioned orally. The results of Frank T. Takao and Harry E. Young, salesman applicants, were held up for a further review and decision. After a careful review of their examination papers, both written and oral transcripts, the Commission unanimously felt that Mr. Takao and Mr. Young did not make the required passing grade and, therefore, should be denied licensure at this time. The Administrator was instructed to send them notices of this Commission's decision and to notify them of the date of the next real estate examination.

Oral Examinations to Applicants Who
Were Absent on June 23, 1952

As agreed at the last meeting, three applicants who were unable to take the oral examinations on June 23, 1952 were given another opportunity today. Mr. Nane A. Aluli, broker applicant, and Mr. Robert H. C. Tam, salesman applicant, were questioned orally on some of the questions they missed in the written examination. After some deliberation, it was unanimously moved that Mr. Aluli and Mr. Tam be approved for licensure as broker and salesman, respectively, provided that they review Chapter 150, Revised Laws of Hawaii, 1945, as amended 1951 (real estate licensing

statutes of the Territory of Hawaii). The Chairman instructed the Administrator to question the applicants further before granting their licenses.

Request for Re-examination of Examination Papers by Bertha M. Wiedmann

Mrs. Bertha M. Wiedmann, salesman applicant, petitioned the Commission for a reconsideration of her examination papers. Mrs. Wiedmann complained that due to the unfavorable examination facilities and location, she was unable to answer the questions correctly. After a further re-examination of her examination papers, it was unanimously moved that Mrs. Wiedmann did not meet the requirements for a saleswoman's license. The Administrator was instructed to inform her of the Commission's decision and to advise her to take the next real estate examination.

Pending Reinstatement Requests by Fortunato T. Castillo and Jesse Monroe Jackson

The Commission decided at its regular meeting held on May 9, 1952 to reinstate the forfeited salesman's licenses of Fortunato T. Castillo and Jesse Monroe Jackson subject to an informal questioning of their unfavorable records before the Commission. After an informal questioning of Mr. Castillo on his gambling and drunk records from the Police Department and Mr. Jackson on his unfavorable credit record, the Commission unanimously approved to reinstate their salesman's licenses.

Old Pending Cases

1. Case of Edward H. S. Marino, Jr. - The Administrator reported that Mr. Marino's case has been closed. He has now an employing broker. This action was unanimously approved and considered a closed matter.
2. Case of J. Mijo, Hilo broker - The Administrator reviewed this case and recommended a thorough investigation of Mr. Mijo's conduct as a real estate broker. The information at hand on Mr. Mijo indicates a possible violation of Section 7741, Chapter 150, Revised Laws of Hawaii, as amended 1951. Since the Commission is unable to take further action on this case without definite proof of Mr. Mijo's violation, it was unanimously approved that the Administrator take the earliest plane to Hilo to investigate this matter and report the findings at the next Commission meeting.
3. Case of Pastor A. Pablo, broker - The Administrator reported that the Attorney General's office advised him that since there is no judge available to hear this appeal, it is uncertain when this case will be reviewed by the court.
4. Case of Alfred Cadinha - The case which was scheduled for July 7, 1952, was again postponed and will be continued to August 14, 1952.

Amendment of Rule 9, Rules and
Regulations of the Real Estate
License Commission

The Commission had written to the Attorney General's office requesting a legal opinion on the prohibition of the usage of the word "company" included in a fictitious name by licensed real estate brokers. A reply from the Attorney General's office dated July 8, 1952 renders an opinion that this Commission has no authority to so act. (See copies of correspondence attached hereto) Mr. Magoon felt that in view of Section 7741 (subparagraph 4), Chapter 150, Revised Laws of Hawaii 1945, as amended, the Commission does not feel justified in allowing the usage of the word "company" when in fact it does not exist. Section 7741, subparagraph 4, reads: "Pursuing a continued and flagrant course of misrepresentation, or making of false promises through advertising or otherwise;" Mr. Magoon advised the Administrator to see Mr. Robert H. K. Chang, Deputy Attorney General, again and request a further clarification on this matter.

Opinion from Attorney General's Office
Re Splitting of Commissions with Foreign Brokers

The Attorney General's office in reply to our request for a further consideration on the matter of splitting commissions with foreign real estate brokers again re-affirmed its previous opinion. (See copy of letter from Attorney General's office) It was unanimously agreed that this Commission will hold its stand and will not recognize the practice of splitting of commissions of real estate brokers within our jurisdiction with a foreign real estate broker.

New Business

Letter from the City Planning Commission
Re Real Estate Licensees Operating in
Violation of Zoning Ordinance

The Administrator read a letter from the City Planning Commission, City and County of Honolulu, requesting this Commission to inform our licensees that it is not permissible under the zoning laws to conduct real estate business in a residential zone. (See copy attached) The Administrator was instructed to acknowledge the letter and advise the City Planning Commission that it is not within the jurisdiction of this Commission to enforce or to correct violations of the City Planning Commission ordinance.

Reply from Attorney General's Office
in Regard to the Time Limitation for
Paying License Fees

This Commission requested an opinion of the Attorney General's office

in regard to the disposition of applicants whose licenses were approved after having met all the requirements but who refuse or are unable to remit the required license fees.

The Attorney General's office has ruled that once an applicant has met all the requirements for a license, the Commission must issue such person a license upon payment of the prescribed fee and should not establish a time limit as such a limitation would be inconsistent with the apparent intent of Chapter 150, Revised Laws of Hawaii, 1945, as amended 1951. (See communication from Attorney General's office)

The Administrator informed the Commission that at present the following applicants for a salesman's license who passed the examination on February 9, 1952 have not paid for their licenses to date even after several notices were served them:

1. Larry N. Kuriyama
2. Vincent H. Yano
3. Shige Mayeshiro

Mr. Magoon suggested that the only way we could correct this condition is to enact or amend our laws requiring a re-examination of an applicant who fails to remit his license fee in a certain length of time. Such an enactment would also give the Commission authority to re-examine licensees who were inactive for a long period of time and now want to reinstate their licenses and actively engage in the real estate business. Many of them are unfamiliar with the latest changes of our real estate statutes and other pertinent changes that took place.

The above applicants who passed the salesman's examination will be placed in the active files until such a time as they are ready to remit their license fees.

Reinstatement Requests

The following petitioners requested the reinstatement of their forfeited licenses. Upon favorable recommendation of the Administrator, it was unanimously approved that the following petitioners' licenses be reinstated:

<u>Salesmen</u>	<u>Broker</u>
Maybelle Roth Tamaki Sasai	Peter N. Kim

Request to Open Branch Offices By George R. Farias & Iris J. Cullen

Mr. George R. Farias, broker, applied to the Commission to open a branch office at 184 Merchant Street, Room 4, Honolulu, T. H. The Administrator requested that he be allowed to check further as to the

broker in charge and the personnel who will work at this branch office before approval be given.

Mrs. Iris J. Cullen, broker, requested permission to open a branch office at Hauula, Oahu. This Commission requested information as to who will be in charge of the branch office and the salesmen who will be working from this branch office. To date she has not replied to our communication of May 15, 1952. It was unanimously agreed that another letter be sent to Mrs. Cullen, advising her that before approval can be given on her request this Commission has to have the information we requested.

NALLO Convention at Miami Beach, Florida - November 6, 7, and 8, 1952

The Administrator reported that notice has been received that the 1952 NALLO Convention will be held at Miami Beach, Florida, on November 6, 7, and 8, 1952 instead of at Richmond, Virginia, as originally planned. Mr. Robert Semenow, Secretary-Treasurer of NALLO has confirmed room reservations for our members.

Bids on Real Estate Directory for 1952-53

Bids for printing our annual real estate directory were presented to the Commission. The question was raised whether it was necessary to publish such a directory. Since there were quite a number of last year's directories still remaining undistributed, it was unanimously agreed that for economy sake the Commission would attach a mimeographed sheet to the old directory and bring all the new licensees' names up to date. The Commission may decide to print a new directory for the next fiscal year.

Applicants Who Filed Applications to Take Examinations but Failed to Show Up

The Administrator reported that in the past a number of applicants have filed applications to take the real estate examinations but failed to show up for the examination. It was moved by Mr. Magoon and unanimously carried that a rubber stamp be made, stating that application fee of \$5.00 to take an examination will not be refunded and in the event an applicant fails to show up on the examination date, he will have to file another application and pay an additional \$5.00 application fee. Mr. Magoon stressed the fact that there will be no exceptions made of this rule.

Credit Bureau Report

It was reported by the Administrator that the Commission in the past has subscribed to the confidential Credit Bureau Report, which amounts to \$27.00 every three months, in order to secure confidential credit reports on applicants who apply to take the real estate examinations. The Commission is allowed ten free inquiries and any inquiry thereafter is charged 30¢. For every quarterly real estate examinations conducted by the Commission, it costs on an average of approximately \$50.00 to \$60.00 for

inquiries alone. The question was put, "Is the Commission justified in expending such costs to solicit the services of the Credit Bureau of Hawaii?" It was moved by Mr. Magoon and unanimously carried that this matter be deferred for discussion until the next Commission meeting.

Approval of Commission Expenditures

The Commission members were advised that the expenditures for the month of June amounted to \$858.84. The total collections for June was \$1,864.90. The unexpended balance remaining in the Special Fund at the end of the fiscal year, June 30, 1952, amounted to \$12,286.60.

Reports on Pending Cases and Minor Violations

1. Case of Josephine Roy, saleswoman - Mrs. Roy has repeatedly ignored our request to advise this Commission of her employing broker. It was decided that the Commission write to her again requesting immediate compliance with out laws.
2. Case of Mr. Lim versus Pastor A. Pablo, broker - The case will be taken up at the next Commission meeting.
3. Case of Jack Wakayama, broker - Mr. Wakayama was cited for violation of Rule 8, Rules and Regulations of the Real Estate License Commission. The Administrator called Mr. Wakayama's attention to this violation and he has made immediate correction. Case closed. See report attached.
4. Case of Kenneth T. Olds, broker - Mr. Old's was cited for possible violation of Section 7741, subparagraph 2 and 4, Chapter 150, Revised Laws of Hawaii, 1945, as amended, which read respectively, "Making any misrepresentation concerning any real estate transaction" and "Pursuing a continued and flagrant course of misrepresentation, or making of false promises through advertising or otherwise;" The Administrator called Mr. Olds' attention to this matter, and he has agreed to use more caution in his future real estate advertisements. See report attached. Case closed.
5. Case of Henry K. C. Chang, broker - Mr. Chang was cited for violation of Rule 8, Rules and Regulations of the Real Estate License Commission. See report attached. Case closed. The Administrator was instructed to send a reprimand letter to Mr. Ching for his violation and to caution him to exercise more care in his future advertisements.
6. Case of Richard K. Ho, broker - Mr. Ho was cited for possible violation of Section 7741, subparagraph 9, "Any other conduct constituting fraudulent or dishonest dealing;" See report attached. It was unanimously moved that Mr. Ho be requested to cease such

advertisements until he has properly registered his trade name at the Treasurer's office.

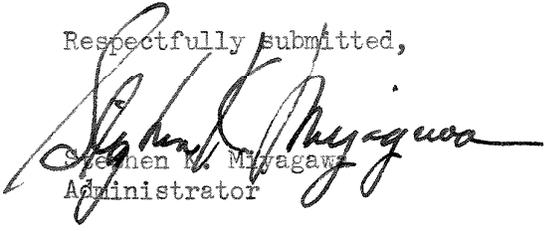
7. Case of Lloyd Vasconcelles, broker - Mr. Vasconcelles was cited for violation of Rule 8, Rules and Regulations of the Real Estate License Commission. It was recommended that since this is Mr. Vasconcelles' first violation that he be reprimanded and cautioned to exercise more care in his future advertisements and to comply with Rule 8, Rules and Regulations of the Real Estate License Commission. See report attached.

Communication from The Real Estate and
Business Brokers Act of Ontario, Canada

A communication from the Registrar, Real Estate and Business Brokers Act, Department of Insurance, Ontario, Toronto, Canada, was read by the Administrator. A request was made for a ruling of this Commission as to when a broker may withdraw from his trust account monies claimed by him as his commission. It was decided that this matter be deferred until the next Commission meeting. The Administrator was instructed to acknowledge receipt of the communication and advise them that due to a change in the administration our reply has been delayed and the matter will be taken up at our next meeting. (See copy of communication attached).

It was further decided that the interpretation of the intent and meaning of the commingling clause be taken up for discussion at our next meeting in conjunction with the above matter.

Respectfully submitted,


Stephen K. Miyagawa
Administrator

SKM:ei
Atts.