

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

August 11, 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
Robert H. K. Chang, Deputy Attorney
General, Territory of Hawaii

The regular meeting of the Real Estate License Commission of the Territory of Hawaii was called to order by Mr. Eaton H. Magoon, Chairman, at 3:15 p.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

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

The Administrator reported that at our last meeting held on July 10, 1952, he was instructed to advise the City Planning Commission that this Commission has no jurisdiction to enforce the zoning ordinance of the City Planning Commission on our real estate licensees. However, this Commission will cooperate with the City Planning Commission in acquainting the licensees regarding the zoning ordinance. The City Planning Commission has acknowledged our letter, copy of which is attached to the minutes. Mr. Akau moved, seconded by Mr. Magoon, and unanimously carried that this matter be considered closed.

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

A communication was received from the above office, requesting a ruling of this Commission as to when a broker may withdraw from his trust account monies claimed by him as his commission. After some discussion, it was moved by Mr. Magoon, seconded by Mr. Akau, and unanimously carried that this matter be referred to the Honolulu Realty Board for reply. The Administrator was instructed to keep a copy of the letter for our files and advise the Real Estate and Business Brokers Act that our laws do not

cover the question asked and; therefore, the matter has been referred to the Honolulu Realty Board for their opinion. See copy of letter in file.

Request to Open Branch Office by
George R. Farias, Broker

The Administrator reported that Mr. George Farias, broker, who had applied to open a branch office, complied with our request as to who will be in charge of the branch office and the personnel who will be working in this office. It was moved by Mr. Magoon, seconded by Mr. Akau, and unanimously carried that Mr. George Farias be permitted to open a branch office and a license issued without any additional charge.

Credit Bureau Report

At our last meeting, the question was brought up by the Administrator whether this Commission should continue to spend \$27.00 every three months to subscribe to the Credit Bureau Report, a weekly credit publication. Only members of the Credit Bureau may receive preferential services to check on the credit report of individuals in question. The Real Estate License Commission has been paying 30¢ for each inquiry after the initial ten inquiries for credit reports on applicants who apply to take real estate examinations. After considerable discussion favoring continuing the services and also with the legal advice of Mr. Robert Chang, Deputy Attorney General who was present at the meeting, it was moved by Mr. Akau, seconded by Mr. Magoon, and unanimously carried that the Commission should continue to subscribe to the Credit Bureau Report.

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

Mr. Robert H. K. Chang, Deputy Attorney General, was invited to be present at our Commission meeting to further clarify his letter to the Commission dated July 8, 1952 regarding the authority of this Commission to prohibit the use of the word "company" in any trade name by an individual licensed real estate broker. Mr. Magoon pointed out to Mr. Chang that in view of Section 7741, subparagraph 4, Chapter 150, Revised Laws of Hawaii, 1945, as amended 1951, such practices may be construed as misrepresenting the facts. Mr. Chang explained that there is no provision in our laws to prevent an individual licensed broker to do business under a fictitious name which includes the word "company", and as such it cannot be construed as misrepresentation. He also felt that amending our laws to prevent real estate brokers from using the word "company" will not necessarily mean that the general public will be protected in its real estate transactions.

It was moved by Mr. Magoon, seconded by Mr. Akau and unanimously carried that the Administrator work with Mr. Chang and study the above question further. The Administrator was also instructed to review with Mr. Chang the other suggested amendments and additions to the Rules and Regulations before advertising such amendments in the papers for a public hearing.

Pending Cases

1. Case of J. Mijo, Hilo broker - The Administrator reported the results of his investigation on the conduct of Mr. J. Mijo, real estate broker. It was found that Mr. Mijo did not maintain a client's fund as required in Section 7741 (15), Revised Laws of Hawaii 1945, as amended 1951. He was also unable to account for \$400 of the \$600 down payment he received from the Ikedas, buyers, on the property the Tokusatos were selling. When Mr. Mijo was questioned as to what happened to the \$400, he replied that \$65.00 was spent for drawing up the deed, certificate of title, and search for a prior transaction. The proof of such payment was not ascertained. The Administrator had written to Attorney Martin Pence to give us the details on the real estate transaction Mr. Mijo was handling for the Tokusatos. Mr. Pence advised this Commission that the deed of transfer and other documents have been prepared as requested; but, to date, Mr. Mijo or the sellers have not called for them or made any payments for such attorney's services. The Administrator learned that before his return to Honolulu, Mr. Mijo returned \$335.00 to Mr. and Mrs. Ikeda. Mr. and Mrs. Ikeda are demanding that their full down payment be returned to them immediately or else that the transaction be consummated as soon as possible. From the above, it would seem that Mr. Mijo is in violation of Section 7741, subparagraph 3, 8, and 15, Revised Laws of Hawaii 1945, as amended 1951.

After reviewing the facts of the case thoroughly, it was moved by Mr. Magoon, seconded by Mr. Akau, and unanimously carried that Mr. Mijo's real estate broker's license be suspended for a month from September 1, 1952 to October 1, 1952 subject to a petition for a hearing before the Commission to show cause why his license should not be suspended. His petition for a hearing must be in before September 1, 1952.

2. Case of Josephine Roy - The Administrator reported that Mrs. Roy, real estate saleswoman, was given three written notices from this Commission requesting her to advise us of the name of the broker who has employed her. To date she has continued to ignore our requests. It was moved by Mr. Magoon, seconded by Mr. Akau, and unanimously carried that the Commission send a final registered letter instructing her that if she does not reply to our letter by August 20, 1952, her real estate license will be revoked.
3. Case of William P. H. Lim vs. Pastor A. Pablo - This case was again reviewed by the Administrator. This case seems to follow the same pattern of operation as in the case of A. DeMello vs. Pastor A. Pablo (minutes of 12/26/50) where Mr. Pablo made a large profit from a real estate transaction through the use of a straw man. See file on Lim vs. Pastor Pablo for details.

It was moved by Mr. Magoon, seconded by Mr. Akau, and unanimously carried that a formal hearing be scheduled to show cause why Mr. Pablo's broker's license should not be revoked.

Rubber Stamp for Application
Payment Receipts

A rubber stamp which reads: "This \$5.00 application fee will be forfeited if the applicant fails to appear at the designated examination" was made as requested at our last meeting. This will be stamped on every application payment receipt. The Commission members unanimously approved of the action taken by the Commission.

New Business

Reinstatement Requests

The following petitioners requested the reinstatement of their licenses. Proper petitions and payments have been made and it was recommended by the Administrator that approval be given for their reinstatement. It was moved by Mr. Akau, seconded by Mr. Magoon and unanimously carried that the following be approved for reinstatement:

1. Marion Bockus, broker
2. Blanche E. Bent, broker
3. John Kim, salesman
4. Antone C. Cacatian, Sr., salesman

The Administrator took exception to the petition of Mr. Cacatian. It was recommended that approval be given for reinstatement but his license be transferred to the inactive file until such a time as he is able to get a broker to sponsor him. The members unanimously approved this recommendation.

Door Prizes for the NALLO Convention
from Members of this Commission

A letter from Mr. Al J. Crose, requesting door prizes from the delegates who will attend the NALLO Convention, was brought up for discussion. It was felt that costs for such prizes should be donated by the members of this Commission. The two members individually agreed to donate one article as door prizes.

Resignation of J. Carroll Parker
as Real Estate Salesman

Mr. J. Carroll Parker, salesman for Parker & Company, notified this Commission that he has entered into a contract with the New York Life Insurance Company which does not allow him to continue as a real estate salesman. Upon the recommendation of the Administrator, the resignation of the salesman's license of Mr. J. Carroll Parker was unanimously accepted by the Commission.

Maury Realty Company

It was reported by the Administrator that Mr. Wade H. Maury, formerly principal broker of Maury Realty Company, has entered into a partnership

with Mr. Norton McQuerrey, broker, on June 10, 1952 under title of Maury-McQuerrey Realty Company. To date Mr. Maury has not given this Commission official notice of the dissolution of Maury Realty Company. Mr. Magoon, moved, seconded by Mr. Akau, and unanimously carried that the Commission should write to Mr. Maury to request that the brokerage license for Maury Realty Company be returned to this office.

Cross Reference Telephone Directory

The Mutual Telephone Company is taking subscription for the new 1952 Cross Reference Directory. Since this directory is necessary in investigating our advertising violations and to facilitate other investigations, it was moved by Mr. Akau, seconded by Mr. Magoon, and unanimously carried that the Commission subscribe for a Cross Reference Directory. The annual rental charge per copy is \$50.00.

Annual Governor's Report

The annual fiscal report to the Governor of Hawaii was unanimously approved as submitted by the Administrator. A copy of the report is filed in the Governor's Report file.

Annual Audit of the Commission Books, Records, and Accounts

The Auditing Department submitted to this Commission a report on the audit of our books, records and accounts for the period from May 1, 1951 to and including June 30, 1952. The report states that the audit disclosed that as far as the auditors could ascertain the Commission's books and records were found to be neatly kept and in good order and all cash received in the abovementioned period had been properly accounted for. The Commission members were unanimous in their approval of the audit report. See attached copy.

Budget Report for the Biennium 1953-1955

The Administrator submitted the Budget Report for the biennium 1953-1955. Mr. Akau moved, seconded by Mr. Magoon, and unanimously carried that the budget as prepared be submitted to the Budget Bureau.

Annual Inventory Report

The annual inventory report was submitted by the Administrator for signature and acknowledgment by the Chairman of the Commission. Mr. Magoon, after reviewing the report requested that the Administrator certify that the "Detail Inventory of Equipment" and the "Inventory of Material and Supplies" were checked and found to be correct. See copy of inventory report in the Inventory file.

Financial Report of Commission

The Administrator reported that there was a total expenditure of \$88.94 and an income of \$401.40 during the month of July 1952.

There was at the end of July a total unexpended balance of \$11,779.23 in the Special Fund for this Commission. Mr. Magoon, Chairman, checked the expenditure items for the month of July and signed the Summary Warrant Voucher.

Fake Real Estate Deal by
Patrick Yim and 3 Accomplices

On July 30, 1952 Mr. Magoon requested that we write to the Public Prosecutor's Office of the City and County of Honolulu to inform them that Patrick Yim and his accomplices are not licensed real estate salesmen or brokers of this Commission; therefore, they are in violation of Section 7736, Chapter 150, Revised Laws of Hawaii 1945, as amended 1951, which requires that all real estate transactions must be handled by licensed real estate brokers and salesmen. On August 4, 1952 the Administrator wrote to Robert E. St. Sure, City and County Public Prosecutor, and requested that the Prosecutor's Office institute legal proceedings against Patrick Yim and his accomplices for violation of the above section. The Commission unanimously approved the action that was taken by this Commission. See news article and copy of letter to Mr. Robert St. Sure, Public Prosecutor, City and County of Honolulu.

Requisition for Office Forms

The Administrator reported that in the process of taking the inventory for material and supplies, it was discovered that the Commission had in its possession an inadequate supply of real estate license certificates, real estate identification cards for brokers and salesmen, and salesman's application forms. It was therefore requested that this Commission purchase these office forms from the printer's. Mr. Akau moved that in order to avoid any criticism the Commission should request bids from the various printing firms. Mr. Magoon seconded the motion and was unanimously carried.

Brokerage Application

On August 6, 1952 this office received from the "Hawaii Construction & Realty Company, Ltd." a request to be licensed as a brokerage. The application form disclosed that Mr. Jinguvei Mijo was to be the principal broker of this corporation and that Mr. Gilbert Hay, Jr., was to be the salesman in the corporation. Mr. Akau moved, seconded by Mr. Magoon and unanimously carried that because of the action to be taken against Mr. Mijo (see above), this matter should be deferred until the next Commission meeting.

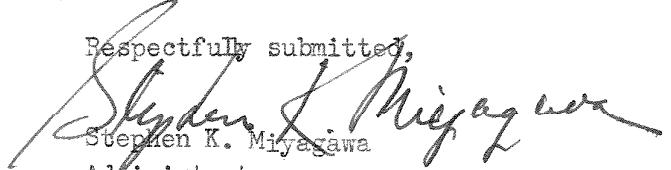
Honolulu Business Brokerage

On August 11, 1952 Mr. Jack Matsuo, broker, applied to be licensed to do business under the trade name of Honolulu Business Brokerage. A check with the Treasurer's Office disclosed that Mr. Matsuo had registered the trade name. Since there are no other case or new derogatory information on Mr. Matsuo which might prevent this Commission from recommending the approval of the trade name, Mr. Magoon moved, seconded by Mr. Akau, and unanimously carried that the Commission approve the licensing of the trade name of Honolulu Business Brokerage.

Minor Violations and Complaints

1. Case of Frank Ishii, salesman - The Administrator submitted a report dated August 4, 1952 alleging that Mr. Frank Ishii, salesman, and Mr. Joseph T. Ahuna, broker for Andrade & Ahuna, were in violation of Rule 8, Rules and Regulations of the Real Estate License Commission. See report dated August 4, 1952. It was, therefore, recommended that this Commission reprimand both Mr. Ishii and Mr. Ahuna for this violation and further to request that they exercise more care in their future advertisements. The Commission unanimously carried the recommendation.
2. Case of Island Properties, Ltd. - On August 11, 1952 the Administrator submitted a report, alleging that Island Properties, Ltd. was in violation of Rule 8 of the Rules and Regulations of the Real Estate License Commission. The Administrator immediately contacted the Island Properties, Ltd. and instructed them to correct the advertisement and were cautioned to exercise more care in their future advertisements. The Commission unanimously approved the action taken by the Administrator. See report dated August 11, 1952.
3. Case of James W. Peltier - The Administrator reported that John R. Gonsalves and Rose R. Gonsalves appeared at the Real Estate License Commission to lodge a complaint against Mr. James W. Peltier, salesman, and Mr. Charles Kimura, broker, for a possible misrepresentation in the handling of the sale of a 3-bedroom home further identified as Tax Key 4-5-39-51 and 52. After all the parties involved in the transaction were interviewed, the Administrator called John and Rose Gonsalves to the Commission office and informed them of the results of the investigation. On May 13, 1952 the complainants signed a statement withdrawing the original complaint. The Administrator further reported that this matter was properly not within the jurisdiction of this Commission because Mr. Gonsalves was only trying to withdraw from a purchase agreement executed between they and George S. Rodrigues, the seller. After a considerable discussion, Mr. Magoon moved, seconded by Mr. Akau and unanimously carried that this case be closed for lack of jurisdiction.
4. L. W. Giltner vs. Howdy Reynolds, broker - The Administrator submitted to the Commission an investigative report dated August 11, 1952 on a dispute between Mr. L. W. Giltner, complainant, and Mr. Howdy Reynolds, broker. After a review of the report, it was moved by Mr. Magoon, seconded by Mr. Akau, and unanimously carried that this complaint is not within the jurisdiction of this Commission and to recommend that they consult their own attorney. See report dated August 11, 1952.
5. Benjamin Ayson vs. Mauro Madolora - A report on the dispute between Mr. Benjamin Ayson and Mauro Madolora, salesman for State Realty Company, was submitted to the Commission for their review and disposal. See complaint and report dated August 6, 1952. It was moved by Mr. Akau, seconded by Mr. Magoon and unanimously carried that the matter of dispute may be one of ethics, therefore, not within the jurisdiction of this Commission.

Respectfully submitted,


Stephen K. Miyagawa
Administrator