

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

April 22, 1953, 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
Charles H. Kimura, 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 actions taken were as follows:

ORDER OF BUSINESS

Results of Salesman's and Broker's
Examinations Conducted on April 4, 1953

A review of the results of the salesman's examination conducted on April 4, 1953 at the Stevenson Intermediate School indicated that out of 68 applicants who took the examination 30 applicants made passing grades of 75% and above; 10 applicants made borderline grades (between 70 and 75); and 28 applicants made failing grades of 70% and below.

A review of the results of the broker's examination indicated that out of 28 broker applicants 5 applicants made passing grades of 85% and above; 5 applicants made borderline grades (between 80 and 85); and 18 applicants made failing grades of 80 and below.

Upon a motion duly made by Mr. Akau, seconded by Mr. Kimura, and unanimously carried, it was decided that applicants who made 85% and above for brokers and 75% and above for salesmen be immediately approved for licensure. The Administrator was instructed to send proper notices to applicants who failed in the examination. The applicants who made borderline grades will be given oral examinations by the Administrator to determine proper recommendations to the Commission as done in the previous examinations.

Considerable discussion was held on the advisability of re-examining Mr. Frank E. Howes who took the broker's examination and failed.

Mr. Howes has had an extensive experience in real estate; however, due to his advanced age, he finds it difficult to finish the examination within the time allotted to all applicants. It was, therefore, felt that in all fairness to Mr. Howes, the Commission should re-examine him and give him ample time to finish the examination on an appointed date.

The recommended dates for the next series of real estate examinations were as follows:

<u>Date</u>	<u>Deadline for Filing</u>
July 11, 1953	June 22, 1953
November 7, 1953	October 19, 1953

Upon a motion by Mr. Kimura, a second by Mr. Akau, the above dates were unanimously approved by the Commission.

Reinstatement Request by
Mr. John Y. Ko, Salesman

Mr. Ko has submitted a proper petition and has made the payment of \$25.00 to request reinstatement of his salesman's license. Upon a thorough investigation and recommendation of the Administrator, Mr. Akau moved, seconded by Mr. Kimura, and unanimously carried that Mr. Ko's reinstatement as a salesman be approved immediately.

Request to Open Branch Office

Mr. Joseph Rego, Jr., broker, requested permission to open a branch office at 744 Kapahulu Avenue, Honolulu, T. H. It was moved by Mr. Kimura, seconded by Mr. Akau, and unanimously carried that permission be granted to Mr. Rego to open a branch office provided he could appoint a broker to be in charge of the office and furnish the names of the salesmen who will be working from this branch office.

Application for a Trade Name

Mr. Horace T. Sakamoto, broker, requested the approval of the Commission to operate his real estate office under the fictitious trade name of H. T. Sakamoto Realty Company. Upon the recommendation of the Administrator, it was moved by Mr. Kimura, seconded by Mr. Akau, and unanimously carried that approval be granted to Mr. Sakamoto to operate his real estate office under the trade name of H. T. Sakamoto Realty Company.

Case of Kenneth J. S. Pang

Mr. Kenneth J. S. Pang, whose broker's license was suspended from January 1, 1953 to March 31, 1953, petitioned the Commission to lift the suspension and to restore his broker's license. The Administrator recommended that Mr. Pang's license be restored subject to a year's probation by requiring Mr. Pang to report once a month to the Commission

with a statement of all real estate transactions commencing with May 5, 1953. The year's probation is in accordance with the decision rendered by the Commission at its meeting on December 22, 1952. Upon the recommendation of the Administrator, it was moved by Mr. Akau, seconded by Mr. Kimura, and unanimously carried.

Case of Constantino C. Zapata vs.
A. V. Moscoso, broker

The complaint by Mr. Constantino Zapata against Mr. A. V. Moscoso, broker, and Miss Mary K. Kanilao, owner of the property identified as Tax Map Key No. 8-4-01-1, was reviewed by the Commission. Mr. Zapata had repeatedly requested that a light fixture on the lanai be installed as per contract dated June 7, 1952 but to date could not get any satisfaction from either the broker or the owner. It was unanimously felt that this is a private matter between Mr. Zapata and the owner and not within the jurisdiction of this Commission. Mr. Zapata should seek private counsel if he receives no satisfaction from Miss Kanilao, owner of the property.

Case of Anthony B. Souza
vs. State Realty Company

Mr. Anthony B. Souza, 2556 Booth Road, Honolulu, T. H., alleged misrepresentation through advertising of the State Realty Company regarding the availability of FHA financing to qualified purchasers. The Administrator reported that he had interviewed Mr. Edwin Wee and Mr. Richard Miyamoto of State Realty Company and had thoroughly checked the FHA commitment for insurance requested by Finance Factors, Ltd., for Mr. Souza which was approved by Mr. J. Stowell Wright, Federal Housing Commissioner. An inspection was also made of the documents submitted by State Realty Company and Mr. Souza. From all information gathered during the investigation, there was no evidence of misrepresentation or violation as alleged by Mr. Souza on the part of State Realty Company. The inability of Finance Factors, Ltd., to produce the money is no fault of the broker but a matter of policy of that company. This being the case, Mr. Akau moved, seconded by Mr. Kimura, and unanimously carried that the case be closed and Mr. Souza be advised of the decision of this Commission.

Case of H. Bates Len, broker, and Kenneth T. C. Char
Salesman - Violation of Rule 8, Rules & Regulations

Mr. H. Bates Len, broker, and his salesman, Mr. Kenneth T. C. Char, were cited for violation of Rule 8, Rules and Regulations of the Real Estate License Commission of the Territory of Hawaii. Rule 8 reads:

"No real property shall be advertised except in the name of the broker or in a fictitious name previously registered by him with the Commission. Reference to salesmen may be made in advertisements if the advertisement identifies them as salesmen and also names the broker and

identifies him as such."

The ads in violation appeared in the Honolulu Advertiser on April 18, 1953 as follows:

"LILIHA

MUST SELL--604 Panui St. 3-BR.-
Workshop--2 garages. 4,200 sq. ft.
lot. Asking \$12,500. Make offer.
Ph. 55341 or 52400.

"AINA HAINA

Brand New 3-B.R.--7,645 sq. ft. 1 lot.
View. Immediate occupancy -- \$17,950.
Terms. Ph. 55341 - 52400."

The Administrator recommended that a letter of reprimand be sent to the broker, Mr. H. Bates Len, cautioning him to exercise more care in all future advertisements. Mr. Kimura made a motion to approve the Administrator's recommendation which was seconded by Mr. Akau, and unanimously carried.

Case of Titus Napoleon

The Commission noted in its periodic investigation an alleged violation of Section 7736, Chapter 150, Revised Laws of Hawaii, as amended. The Honolulu Advertiser on March 24, 1953 carried an ad which appeared as: "922-A Winant St., 2 B.R. house & lot \$12,000; also front vacant lot, \$8,000. Ph 55316 or 76254."

An investigation disclosed that a Mr. Titus Napoleon, unlicensed to sell real estate, had inserted the ad. The Administrator interviewed Mr. Napoleon in the office and Mr. Napoleon informed the office that he was selling the property for Mrs. Kaleiwa as a personal favor and was not receiving any commission. The Commission concurred with the Administrator that Mr. Napoleon should be strongly cautioned to cease advertising and representing himself to the public as a real estate salesman without first obtaining a license from this Commission. The Administrator was advised to send a letter of reprimand to warn him against similar violation. The case will be closed and filed for future reference.

Case of Antone Martinez vs. Sanford Parker

As agreed in the meeting of March 24, 1953, Mr. Antone Martinez, complainant against Mr. Sanford Parker, was called before the Commission to explain in detail the transaction of the property located at Nakula Street, Wahiawa. The Administrator explained to the Commission members that on March 30, 1953, a letter was received from Mr. Sanford Parker of Parker & Company which was read to the members. This letter admits that Mr. Parker was aware that the property in question was an A residential zone. (See copy of letter attached hereto)

Mr. Martines explained to the Commission that he had returned to the Territory last year from the Orient. At first he was stationed at Fort Shafter and in the meantime was looking for a place to live. It so happened that he picked up the Wahiawa paper, "Rural Oahu Reporter" and saw the ad under the column "Homes" which read as follows:

"Nakula St.--Fully furnished 3 -bedroom home with furnished 2-bedroom quonset on the rear of property, land area. 7,820 sq. ft. Selling price \$14,500."

He immediately called up Parker & Company regarding the property, and was shown the property at Nakula Street by Mr. James Carroll Parker and Mr. Parker. There were some people living in the front house and the owner of the property was living in the rear home. Mr. Martines was interested in the property but before he purchased the property he wanted to make absolutely certain that everything was in "legal order". Mr. J. Carroll Parker assured Mr. Martines that he has nothing to worry because Parker & Company has been in business 18 years and so far has had no difficulty in their real estate transactions. Mr. Parker advised Mr. Martines that the front house and quonset dwelling will be sold fully furnished for \$14,500. Both dwelling homes could be rented out and thereby Mr. Martines will be able to get back whatever money he put in the property in no time.

The owner of the property was returning to the mainland, and it was finally agreed that Mr. Martines purchase the place for \$14,000. He made a down payment of \$500 in check and after drawing out from his child's savings and here and there was able to secure the rest of the payment. Since this was his first venture in purchasing real estate, Mr. Martines accepted Mr. Parker's offer to handle everything for him. However, before renting any of the units to tenants Mr. Martines wanted to clear the rent ceilings with the Rent Control and it was at this point he was advised that he was in violation of the zoning law. It is in violation to have two dwellings on an area of 7,820 sq. ft. which falls in the A-zone category. Mr. Martines felt Mr. Parker misrepresented the property and besides Mr. Parker should know better because everything was entrusted in his care.

Mr. Martines was advised to either remove the quonset hut or use it as a storage house. Furthermore, Mr. Martines complained that Mr. Parker had rented out the quonset hut to some Navy personnel's wife for \$60.00 and deducted collection cost without his knowledge. He received \$55.00 for the house rent. Mr. Magoon felt this had no connection with the misrepresentation of the property.

After Mr. Martines left, the Commission felt that inasmuch as Mr. Martines did not have any knowledge of zoning laws, Mr. Parker as a broker was negligent in handling the sale of the property. Evidence reveals that Mr. Parker was aware of the zoning violation at the time of the sale.

In order to ascertain this point, Mr. Akau moved, Mr. Kimura seconded, and unanimously carried that Mr. Sanford Parker of Parker & Company be called before the Commission for an informal questioning at the next regular meeting.

Commission Financial Report

The Administrator reported the Commission's financial status as follows:

Expenditure for the month of March 1953.....	\$213.88
Total Cash Receipts for the same period.....	626.60
Cash balance in Special Fund as of 3/31/53....	\$20,328.53

The members unanimously voted approval for payment of the expenditures and also gave approval of the sound financial status of the Commission.

Bids to Print Ledger Forms

Bids were let out to Tongg Publishing Company and Mercantile Printing Company to print a set of ledger sheets for salesmen, brokers, and brokerages. The figures received were as follows:

1. Tongg Publishing Company, Ltd.....\$111.05
2. Mercantile Printing Company..... 96.50

The Commission voted unanimously that Mercantile Printing Company be awarded the bid to print 2,000 salesman ledger forms, 1,000 broker ledger forms, and 300 brokerage forms.

Legal Opinion on Part-time Salesman

Attention was called to an excerpt from the Florida Real Estater regarding the much controversial question of part-time salesmen. A test case was made in the State of Florida where a regulation exists preventing part-time salesmen from holding salesman's license and the court declared the rule to be legislative rather than administrative in character and beyond the power of the commission to enact, thereby holding the regulation to be void and unenforceable. The ruling of the court was to wit:

"It is not necessary to a decision in this case to controvert the commissions' findings nor to question the wisdom of prohibiting the practices mentioned in resolution. It is sufficient to say that the act in question is a complete legislative expression on the subject, sets out the qualifications of real estate salesmen and provides for their registration, the grounds for revocation and suspension, prohibits enumerated practices and provides penalties. Nowhere in the act is it expressly provided or inferred that engaging in the vocation of a real estate salesman shall be limited to those applying to it

their full time. If it was the legislature's intent that part time salesmen are harmful to the public interest, they must have said as much, and we must infer that they would have done so. The rule making authority contained in Section 475.05 must be read together with the other provisions of the act and must be exercised within the limitation of the rules of law mentioned above."


License Not Required to Collect Commission

Another court ruling published in the monthly NALLO bulletin through courtesy of Commissioner D. D. Watson of California was discussed. The opinion rendered declares that a license is not required before one can collect on a promise to pay compensation for introducing a prospective purchaser to a property owner desiring to sell his properties, nothing more being done than the bare act of introduction. The Commission felt the above ruling seemed to be in contrary to the Territorial real estate licensing laws and since this might present a serious repercussion to the real estate business, it would seem advisable to give this matter as little publicity as possible until such a time as our laws could be remedied to cover the loophole. (See attached copy of court ruling)

Adjournment

There being no further business, the meeting was adjourned.

Respectfully submitted,


Stephen K. Miyagawa
Administrator

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