

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

October 6, 1953, at the office of the Commission, Rooms 109 and 121,  
Honolulu Armory, corner of Hotel and Miller Streets, Honolulu, T. H.

Present: Eaton H. Magoon, Chairman  
Hirotooshi Yamamoto, Member  
J. Patton Odom, Member  
Stephen K. Miyagawa, Administrator

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 9:20 a.m., in the Commission offices, 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

Case of Martin G. Luna, Broker

As decided in the previous meeting held on September 23, 1953, Mr. Luna was called before the Commission for his violation of Rules 12 and 13, Rules and Regulations of this Commission.

MIYAGAWA: Mr. Luna, you are called before this Commission to explain your reasons for your failure to observe the rules and regulations of this Commission, specifically Rule 13 which requires you to give us notice of any change in business address. Now, would you explain to the Commission.

LUNA: In a way it is a failure on my part.

MAGOON: How long have you been a broker?

LUNA: Oh, some time.

MAGOON: Did you take an examination?

LUNA: I took. It was a salesman's.

MAGOON: You did not take an examination to be a broker?

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LUNA: Well.....

MAGOON: The answer is very simple.

LUNA: I was trying to explain that I was offered a combination of a salesman and a broker examination.....way back in '35..... I was offered to take a broker's license.

MIYAGAWA: For the sake of the records, Mr. Luna was granted his broker's license on March 5, 1948.

LUNA: That's why I applied for a broker's license.

MIYAGAWA: When he first took the real estate examination, Mr. Magoon, he was given an examination by Miss Musgrove of Hawaiian Trust Company. I think Charlie Piestch was the chairman at that time.

MAGOON: Well, are you familiar with these rules and regulations?

LUNA: I gave to Limano to take care.

MAGOON: Who's Limano.

MIYAGAWA: Mr. Limano is a broker. Mr. Luna was located in the same place. Mr. Limano moved away approximately a year ago and this matter was not taken care of until to date. I happened to notice the sign wasn't there and I found that he hadn't notified this Commission.

ODOM: For how long - for a year?

MIYAGAWA: Yes, I think it's about a year.

ODOM: Where was the license issued to?

MIYAGAWA: It was issued to the Moiliili address.

MAGOON: In our opinion, you have violated Rule 13 of our Rules and Regulations.

LUNA: Yes, Mr. Magoon.

MAGOON: (to Odom) You have anything to say?

ODOM: How many deals or transactions did you complete since your notice to us - how many sales you made?

LUNA: I sold my own property only.

ODOM: Only your own property?

LUNA: Yes.

- MAGOON: You haven't dealt with others?
- LUNA: No, it was merely a lead.
- MAGOON: Well, Mr. Luna, this Board feels you have violated Rule 13 and that you, upon your own admission, have stated so. We do not like to have people violating our rules. You are old enough to know our laws. When you violate our laws, you should be punished. Although this is trivial and yet there is no reason for you not to come to this office to report this. However, the fact that you haven't really actively engaged in the sale of properties, as you have stated, we will excuse you this time, but if it comes up again, I am afraid the Board will have to take more drastic action against you. This is your first offense; we don't want you to violate a bigger offense, so my suggestion is to play the game in the right way.
- MIYAGAWA: Would you take care of this matter right away?
- LUNA: I was going to.
- ODOM: Now, I think Mr. Luna, you are going to take care of this right away?
- LUNA: Yes, I will. Thank you.
- MAGOON: You are welcome.

The Commission unanimously voted to close this case against Mr. Luna since he has agreed to comply with our request and has assured this Commission that he will be more careful in the future.

Case of Harold Wazo Oie, Broker

The Commission has been unable to contact Mr. Oie to be present at today's hearing on his violation of Rule 13, rules and regulations of the Commission. Therefore, it was unanimously voted that this case be postponed until a later date.

Case of John Texeira  
Salesman on Kauai

As directed by the Commission, the Administrator wrote to Mr. Texeira for an explanation of his advertisement in the Garden Island newspaper. The owner of the property in question wrote to the Commission explaining the circumstances leading to the advertisement. The members unanimously voted to close this case provided Mr. Texeira would refrain in the future to do similar advertisement which would be in violation of Rule 8, rules and regulations of the Real Estate License Commission. The members instructed the Administrator to caution Mr. Texeira in the strict observance of Rule 8 in the future. (see file on John Texeira for further details)

Reinstatement Requests

Mrs. Hilda Y. Kubo and Mrs. Josephine A. Gilbert have filed petitions to request reinstatement of their salesmen's licenses. The Administrator reported that they have met all the requirements of the law and that there are no adverse records against them. It was unanimously voted to reinstate their salesmen's licenses upon the recommendation of the Administrator.

Copies of Correspondence from Governor's Office

The Governor's office referred a copy of letter from Lt. Commander R. R. H. Lade, U.S. Naval Hospital, Bethesda, Maryland, for a direct reply from this office. Lt. Commander Lade is interested in purchasing real estate on the Island of Kauai for residence purposes. (see copies of correspondence in file) The Commission voted that the Administrator just acknowledge receipt of the communication and enclose our directory of real estate brokers on Kauai so that he can contact them directly regarding possibilities of locating a real property there.

Bids to Print Identification Cards

The following printing firms submitted bids to print our 1954 identification cards for brokers and salesmen:

1. Tongg Publishing Co., Ltd.....\$31.50
2. Printshop of Hawaii..... 31.50
3. Fisher Corporation, Ltd..... 31.90

It was moved by Mr. Odom, seconded by Mr. Yamamoto, and unanimously carried that the Commission award the bid to Printshop of Hawaii since the last printing job was given to Tongg Publishing Co., Ltd.

Financial Report

The Commission's financial report was presented as follows:

Expenditures for September 1953.....	\$	585.44
Fees collected for same period.....	\$	425.50
Balance in Special Fund as of 9/30/53.....	\$	16,195.60

On a motion of Mr. Odom, a second of Mr. Yamamoto, it was unanimously carried that the above report as presented be accepted and approved.

Number of Applications Received to Date To Take Examinations on 10/24/53

A total number of 48 applicants for salesman's license and 26 applicants for broker's license have been received to date to take the examinations on October 24, 1953. Included in the above number were applications from the islands of Kauai, Hawaii, and Maui. As in the past policy of the Commission, it was decided to send Mr. Odom to Kauai and Mr. Yamamoto

to Maui and Hawaii to conduct the examinations simultaneously with Oahu on October 24, 1953.

#### Approval of Broker's Examination

The Administrator presented to the Commission a draft of the broker's examination for October 24, 1953. The members agreed to review it before taking any action on it.

#### NALLO Convention

A letter has been received from Miss Ruth E. Fisher, Pan American World Airways, in regard to the entertainment for the NALLO post convention officials on Tuesday afternoon, November 10, 1953. She reported that to date no one has been booked to take the trip. Should any bookings be made later, she will let us know immediately so that we can make definite plans for their entertainment.

Mr. Ray D. Westcott, Chief Deputy, Division of Real Estate in Los Angeles, California, who is in charge of reservations for the convention delegates, wrote to the Commission that reservations for our Commission members, Mr. Magoon, Mr. Odom, and Mr. Yamamoto, have been completed to stay at the Hotel Statler for the duration of the NALLO convention.

#### Case of Virginia Baker vs. M. G. Augustine, Jr. Broker

Mrs. Baker came to the office on September 16, 1953 to make a verbal complaint against Mr. M. G. Augustine, Jr., broker. Testimony of her statements were taken and was read to the members. (attached is a copy) The Administrator reported that Mrs. Baker on January 3, 1949, made a down payment of \$500 on a property and assumed the equity of \$3,500 under an Agreement of Sale at \$85.00 per month at 6 per cent interest. After a period of 7 months, Mr. Augustine notified Mrs. Baker that she had lost her equity. A check with Mr. Augustine revealed that he had never recorded the Agreement of Sale.

After some discussion, the Commission decided that Mrs. Baker should be referred to the Legal Aid Society for some legal counsel and aid. The Administrator was instructed to contact the Legal Aid Society and explain the situation.

#### Case of Harry C. Weiss Request to Take Salesman's Examination Without Meeting Residence Requirement

Mr. Weiss requested permission to take the coming real estate examination without fulfilling the residence requirement of two years. He claims he had resided in the Territory for one year and 11 months. The Commission has always interpreted Section 7737, subsection 5, Chapter 150, Revised Laws of Hawaii, 1945, as amended 1953, that a person be a resident of the

for at least two years prior to taking the examination. Mr. Weiss claims that the intent of our law is not to bar him from taking the examination and that he is entitled to take an examination although he has not fully qualified as a resident of the Territory. As requested by Mr. Weiss that he be given an opportunity to appear before the Commission, he was called before the members to express his interpretation.

MIYAGAWA: This gentleman wants to be heard on the matter of qualification and the matter of taking the examination for a salesman's license in the Territory of Hawaii. He has informed this office that he will not qualify on the date of the examination but he wishes to take the examination. We have a policy and requirements set down under Section 7737 that we have not permitted any person to take the examination unless he has been a resident of the Territory at least two years prior to taking the examination. He lacks one month residence. The next examination will probably fall the latter part of January because we won't be able to handle any more for this year.

MAGOON: How long have you been residing in the Territory?

WEISS: I will be here two years next month, November 7th.

MAGOON: Where were you before you came here?

WEISS: California.

MAGOON: That's your residence?

WEISS: It has been up until two years ago.

MAGOON: You have voted in California?

WEISS: Not since I came here.

MAGOON: You haven't been back since that?

WEISS: I was back in January.

MAGOON: What experience do you have in real estate?

WEISS: I used to sell subdivisions on the mainland.

MAGOON: Are you prepared to take this examination? Have you studied for it?

WEISS: No, I haven't studied. I don't know much about real estate but.....

MAGOON: When you came, did you tell anybody that you want to make this your residence?

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WEISS: No, I came with the idea that I would like to see how things are here.

MAGOON: It was your intention to make this place your residence?

WEISS: No, I didn't intend to until last year or so. In that regulation it doesn't say anything about application. If I take and pass the examination, the results will be known about a month from now.

MIYAGAWA: The requirements say that a person must be a resident of the Territory for at least two years before the issuance of such license.

MAGOON: What page?

MIYAGAWA: Page 6.

WEISS: It doesn't say anything about application. I am not asking for license - I am only asking to apply.

MAGOON: (reading Section 7737, subparagraph 5, Chapter 150, Revised Laws of Hawaii, as amended 1953) Well, it seems to me it is somewhat ambiguous, but I presume the intention of this law is not to give anybody an examination unless he can be given a license. Otherwise, if you took this examination, we cannot give you a license. It seems to me the intent of the law is that the person must be a resident for two years before he can get a license. Before we can actually talk to you about examination, you must be able to show residence of two years or more.

WEISS: It doesn't say you have to have two years' residence before applying. I am sure that wasn't the intent of the law. I can't take the examination for another 3 weeks and then it will take another 3 weeks before the examination will be corrected and that will take care of my residence.

MAGOON: I move that we take this under advisement.

WEISS: When is the closing date for this examination?

MIYAGAWA: It was yesterday.

ODOM: Well, I think we better talk this over.

MAGOON: Mr. Weiss, will you step out for a few minutes?

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WEISS CALLED IN AGAIN.

- ODOM: Mr. Weiss, we have talked this matter over quite thoroughly, and we have decided to pass this on to the Attorney General of the Territory to give us a clarification of Section 7737, subparagraph 5. If they think you have been here long enough to qualify to take this examination, you will be allowed to take the examination. Otherwise, you have to wait.
- MAGOON: We would like a clarification from the Attorney General's office. You may not be eligible. You only declared to become a resident of the Territory only a year ago. Residence is a matter of intention. Merely residing here doesn't make you a resident. You could not vote here if you did apply; they would have to check where you last voted. We will consider your application subject to the interpretation of the Attorney General's. After all, it is up to them to interpret the law. We will not close you out entirely. You can file your application. We want to know the intention of the law. That's why we are giving you an opportunity. We have to seek the advice of the Attorney General's office. As a matter of fact, we have turned down many of these requests.
- WEISS: I want to be prepared for the examination.
- MAGOON: You got to qualify thoroughly before you can take the salesman's examination.

From the statements made by Mr. Weiss, the members concurred that Mr. Weiss' request should be presented to the Attorney General's office for clarification on Section 7737, subparagraph 5 (residence requirement) before any action is taken on his application to take the salesman's examination. The Administrator will submit a summary report to that office for a legal opinion.

Respectfully submitted,

  
Stephen K. Miyagawa  
Administrator