

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

May 11, 1954, at the office of Mr. Eaton H. Magoon, Chairman, 910 Alakea Street, Honolulu, Hawaii.

Present: Eaton H. Magoon, Chairman
J. Patton Odom, Member
Hirotoshi Yamamoto, 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 9:00 a.m., in his office at 910 Alakea Street, 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 John B. Shumway,
Stowe-Way Home, Ltd.

On April 29, 1954, Mr. Robert St. Sure, Public Prosecutor, City and County of Honolulu, called this office to sign a complaint against Mr. John B. Shumway. Upon the advice of the Attorney General's office that there will be no personal liability involved for performing this duty which is found in Section 7734, Revised Laws of Hawaii, as amended, the Administrator agreed to sign the complaint. However, before the complaint was signed, a copy of a letter to Mr. Wadsworth Y. H. Yee, Deputy Attorney General of the Territory of Hawaii, was received from Mr. St. Sure, informing this Commission that the Shumway case has been referred to the Detective Division of the Honolulu Police Department. There also appears to be a case of gross cheat against Mr. Shumway.

The Commission, after reviewing the above case, instructed the Administrator to acknowledge receipt of Mr. St. Sure's letter to Mr. Yee, and further requested that he keep the Commission apprised on the future disposition of the case. If nothing is done within 30 days, it was suggested that we inquire into the progress of the case.

Case of Thailia Comer, Broker

The Attorney General's office advised this office that Mrs. Comer has misled the public in believing that she is a holder of an honorary degree of L.L.D. Mrs. Comer, upon questioning by the Administrator,

admitted that she was awarded only a Juris Doctor's degree. The correct abbreviation for Juris Doctor is J. D. Mrs. Comer has since made the proper correction in her advertisement and the matter was unanimously voted closed as far as this office was concerned. (see attached copy of legal opinion from the Attorney General, Territory of Hawaii, and refer to Thailia Comer's files for further information)

Brokerage Application -
Island Capital, Ltd.

Mr. Raymond Y. Nikaido, broker, filed a brokerage application in the name of Island Capital, Ltd., appointing himself as the principal broker for the corporation. The applicant has met all the requirements. Mr. Odom moved for acceptance and approval which was seconded by Mr. Yamamoto and unanimously carried.

Applications for Fictitious Trade Names

The Akers Realty Company, a co-partnership of Mr. Parker D. Jeffers and Mr. Donald H. Akers, brokers, has been dissolved. Both brokers filed applications to carry on their real estate business under fictitious trade names. The Commission unanimously approved the following trade names:

Parker D. Jeffers dba Kailua Realty Company
Donald H. Akers dba Akers Realty Company

Reinstatement Requests

Mr. James Y. S. Chang, salesman, and Mr. Neil Robertson, broker, have filed petitions requesting reinstatement of their licenses. Upon the favorable recommendation of the Administrator, the Commission unanimously voted to approve the reinstatement and issuance of the licenses to Mr. Chang and Mr. Robertson.

Case of David Chung Wo Au

Through his attorney, Kinji Kanazawa, Mr. Au has petitioned this Commission to reinstate his salesman's license which was revoked on April 19, 1949. The revocation of his license was a result of his conviction for a federal criminal offense. Mr. Au now feels that he has led an upright and moral life for the required statutory period of five years and requests consideration by this Commission.

The Commission unanimously voted to allow Mr. Au to appear before the Commission to present his case and instructed the Administrator to set a date for the hearing.

of this section, land may be offered for sale, lease or rent. For the purposes of this ordinance, the holder of any option or agreement may act as and perform all the duties of the owner of the fee simple title."

The consensus of opinion among the members was that the above ordinance was ambiguous and did not provide adequate protection to the general public. This Commission looks with disfavor the practice of taking options by real estate brokers who sell to the general public lots in a proposed subdivision before final approval is obtained or before adequate improvement bond is posted in order to protect the prospective purchasers of the lots. The Administrator was instructed to advise Mr. Blackshear that under Section 7734, Chapter 150, Revised Laws of Hawaii, the chief duty of this Commission is to fully effectuate the provisions of this chapter and to carry out its purpose, which purpose is the protection of the general public in its real estate transactions. Mr. Elackshear would have to comply with the provisions of Ordinance 58; however, in order to protect the public, he was requested to inform this Commission in writing the agency appointed to hold any deposit or option money received toward the purchase of lots in a proposed subdivision. The Administrator was further instructed to obtain an interpretation of the above ordinance from the Attorney General's office as soon as possible so that this Commission would be guided by their interpretation.

In order "to put more teeth" in our existing laws or to enforce the inherent power of this Commission, it was unanimously voted to promulgate a new rule and regulation pertaining to sale of lots in a proposed subdivision. The Administrator was instructed to work out some rules and regulations for the Commission's approval.

Violations of Rules and Regulations

(a) Maui Realty & Finance Co., Ltd. - The corporation was cited for violation of Rule 6, Rules and Regulations of this Commission. Maui Realty & Finance Co., Ltd., had failed to name a successor to the late Mr. E. Stanley Elmore as required under Section 7737, subparagraph 4, and Rule 6, Rules and Regulations of the Real Estate License Commission. On May 14, 1954, Mr. Donald Tokunaga, Secretary and Manager of the corporation, was named as the principal broker in compliance with our request.

The Administrator was instructed to write to the above corporation, advising that they should use more caution in observing and abiding with the statute and the rules and regulations of this Commission. The Commission unanimously voted the case closed since the proper correction has been made.

(b) Thomas B. Miles, Salesman - On April 2, 1954, Mr. Miles, salesman, was released from the employment of McQuerrey Realty Company. On April 5, 1954, this office called his attention to comply with Rule 13, Rules and Regulations of the Real Estate License Commission.

Mr. Miles, to date, has ignored our request; therefore, the Commission cited him for violation of the above rule. The Administrator was instructed to write to Mr. Miles and require him to comply with Rule 13 immediately.

New Cases - Preliminary Reports

(a) John K. Poncey versus Bishop Trust Co. - Mr. Poncey complained to the Commission that he had executed a Provisional Sales Agreement with Bishop Trust Company, Ltd., on May 4, 1954, to purchase a lot in a proposed subdivision in Waimalu, Oahu. Mr. Poncey had made a \$500.00 deposit. Mr. Poncey inquired whether this provisional sales agreement could be construed as a bona fide contract and whether he would be bound by its terms as such.

After reviewing the form signed by Mr. Poncey, the Commission unanimously voted to refer this matter to the City Planning Commission, City & County of Honolulu, for its opinion in the matter.

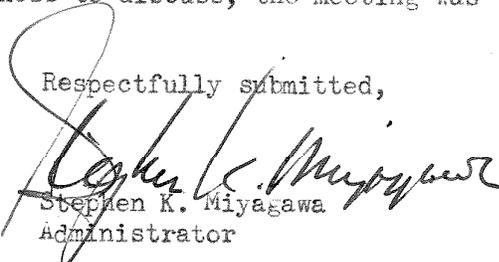
(b) Toshimi Ishii versus Frank Munoz & Associates, Ltd. - Mr. Ishii came to the office to report that he had purchased a lot in a subdivision at Waikele, Ewa, from Frank Munoz and Associates, Ltd. At the time he made the purchase, representation was made by Mr. Munoz that the improvement district assessment for the furnishing of water will be borne by the corporation. He now finds that he has to pay 2¢ or 3¢ for the water improvement. Mr. George Hasegawa, the present agent of Frank Munoz & Associates, Ltd., was questioned on this matter. He presented a letter to the Commission written by Mr. Cable A. Wirtz, attorney for the corporation, stating that at no time did the Board of Directors of Frank Munoz & Associates, Ltd., authorize any broker acting on its behalf to represent that the lots in the subdivision were being sold free and clear of any improvement district assessment for the supplying of water. If any verbal representations were made, they were made without the authorization of the corporation and for which the brokers involved are personally responsible.

The Commission unanimously voted that the Administrator investigate this case further and report the findings at the next Commission meeting for official action.

Adjournment

There being no other new business to discuss, the meeting was adjourned at 10:45 a.m.

Respectfully submitted,


Stephen K. Miyagawa
Administrator

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