

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

December 7, 1954 at the offices of the Real Estate License Commission, Rooms 109 and 121, Honolulu Armory, corner of Hotel and Miller Streets, Honolulu, T. H.

Present: Eaton H. Magoon, Chairman
J. Patton Odom, Member
Hirotoishi 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 the Commission's office, Rooms 109 and 121, Honolulu Armory, 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 Kenneth T. Olds, Broker
Informal Hearing

Mr. Kenneth T. Olds, broker, was called before the Commission for questioning on his subdivision advertisement which appeared in the Honolulu Star-Bulletin on September 9, 1954. This Commission has on record an opinion rendered by Hiroshi Sakai, Deputy City and County Attorney, which states that where an owner or agent placed an ad in the newspapers with the statement that subdivision lots are sold subject to the final approval of the City Planning Commission, it is in violation of the provisions of Section 6642. (see copy of opinion rendered attached herewith) The Administrator read to the members the circular letter which was sent out to all brokers on March 31, 1954, cautioning all real estate licensees to comply with the provisions of Section 6642, Chapter 127, Revised Laws of Hawaii, 1945, as amended. Furthermore, real estate brokers and salesmen were cautioned that if they do not comply with the above section, they would be in violation of Section 7741, subsection 2, Chapter 150, Revised Laws of Hawaii, as amended, and would be subject to disciplinary action by this Commission.

Mr. Olds was called in before the Commission.

MAGOON: What are the facts in this case? (to Administrator)

MIYAGAWA: The facts of the case are that on September 9, 1954

in the Honolulu Star Bulletin, an ad appeared as submitted here (showing the ad to the members) that a piece of land was subdivided and offered for sale to the public subject to the approval of the City Planning Commission. We have in the past, that is on March 31, 1954, we had notified the brokers and salesmen licensed in the Territory by a circular letter and also through advertisements in the Advertiser and the Honolulu Star-Bulletin, requesting all brokers and salesmen to comply with the subdivision laws of the Territory. At the time of this ad a check was made with the City Planning Commission and it wasn't in compliance with Section 6642 of the City Planning Commission.

- MAGOON: From what you could gather, it is a violation?
- MIYAGAWA: Yes, of Section 7741, as we have stated in our circular letter which I read to the members.
- MAGOON: In other words, this is a violation of the subdivision law, Section 6642, is that right?
- MIYAGAWA: Yes, it is right - Section 6642. Therefore, a violation of Section 7741, Chapter 150, Revised Laws of Hawaii - that's our law.
- MAGOON: Mr. Olds, you have heard this informal charges against you. What have you got to explain?
- OLDS: To be frank, I didn't go over the letter in detail. On the morning I advertised, Stephen called me about it. I immediately pulled it out. I didn't run it again - I took out everything.
- ODOM: Has there been any more advertising after this ad?
- MIYAGAWA: Not that I can recall.
- OLDS: We haven't - everything has been approved by the City Planning Commission.
- MAGOON: Where is this property located?
- OLDS: Corner of Kalakaua and King. It belongs to John Ii Estate.
- MAGOON: Isn't there a Union Service Station there?
- OLDS: Yes. Continental Insurance and Union Station are taking the place. I am now negotiating the sales.

MAGOON: That's where the store is at the corner?

OLDS: Yes - the Continental is using it. The City & County will have to take this building out.

MAGOON: Are you the owner of this?

OLDS: No, I am not.....Kaimuki Realty Company..... Mung Yee Yap.

MAGOON: Mr. Odom, have you anything to say?

ODOM: What about the notice we sent you?

OLDS: I have it - I didn't read it in detail. I am sorry I didn't. I can assure you that it will never happen again.

MAGOON: (to Yamamoto) Have you anything to say, Mr. Yamamoto?

YAMAMOTO: It seems that he has complied with our request. I have nothing to say.

MAGOON: How about you (to Odom)?

ODOM: No, I think not.

MAGOON: Under the circumstances, I feel there has been a violation - an admitted violation. It so happens that it wasn't too serious. The fact that Mr. Olds had corrected that immediately should be taken into consideration, and I believe a letter advising him of the violation should do. What do you think, Mr. Odom?

ODOM: Yes, okey with me.

MAGOON: (to Administrator) You write to Mr. Olds that we feel that this was done unintentionally. If he has been doing continously, it would be different. Okey, Mr. Olds?

OLDS: I assure you that it won't happen again.

After the hearing, the Commission unanimously voted that a letter of reprimand be sent to Mr. Olds, citing his violation of Section 7741, subsection 2, Chapter 150, Revised Laws of Hawaii, as amended. This decision was reached in consideration of the fact that Mr. Olds made immediate correction of his violation and of his own volition admitted his carelessness in not checking more closely with the subdivision laws of the City and

County of Honolulu. Mr. Olds was further cautioned to read all circular letters sent to him from this office more closely and carefully in order to avoid future recurrences of such violations.

Case of Froilan B. Villalba
Informal Hearing

The Administrator explained to the members that Mr. Villalba was given another opportunity to appear before the Commission to determine his qualifications for a real estate salesman's license as required under Section 7737, subparagraph 2, Chapter 150, Revised Laws of Hawaii, as amended. On December 8, 1950, Mr. Villalba took a written salesman's examination and made a passing grade. The Commission denied him a license on the basis of his unfavorable credit record. Mr. Villalba requests consideration at this time and has petitioned this Commission to grant him a salesman's license.

Mr. Villalba was called before the Commission for questioning.

- MAGOON: Mr. Miyagawa, the Commission denied him a license three years ago?
- MIYAGAWA: The Commission denied him a license on the basis of the fact that he had lots of outstanding indebtedness against him.
- MAGOON: What are you doing now, Mr. Villalba?
- VILLALBA: Lunch wagon.
- MAGOON: What?
- VILLALBA: I cook for the lunch wagon.
- MIYAGAWA: When did you change?
- VILLALBA: Well, since October. I resigned from the dance hall.
- MAGOON: How much you make?
- VILLALBA: \$50.00 a week, sometimes \$60.00. All depends on the business.
- MAGOON: You cooking now?
- VILLALBA: I cook. I take \$10.00 a day when there's a boat.
- MAGOON: I see your record shows that you owe a lot of money. You have a judgment against you for \$590.08 in 1949,

another one of \$1,406.72, another one of \$40.93 in 1950, and another one of \$929.50, and then you owe a considerable amount of money - \$608.48 (1950) and \$1,313.39 (1950), and then you have a tax lien of \$1,089.00, and then you have as of March 1954 a collection account of \$7.00. Have you done anything to clear up these bills?

VILLALBA: These bills - I only pay when I can. They know how much I make. I have four children. With \$200 to \$240 there is not much to spare. They don't press me to pay now. The tax liens I had these when I had the dance hall. Before 4 or 5 years ago I own dance hall myself and there was a strike and I had to use the tax money.

MAGOON: You took the tax money and paid for the place? You know you were wrong?

VILLALBA: Yes, but other people were doing the same thing.

MAGOON: You knew that it was wrong?

VILLALBA: I knew but I meant to pay back.

MAGOON: Can you tell me how could this Commission justify in letting you go out and sell properties and trusting other people's money with you when you tell me you used the tax money to pay the employees.

VILLALBA: I am not making any excuses.

MAGOON: I know. I tell you what - it seems to me that..... Will you be able to improve this condition?

VILLALBA: Well I think I can if I am given a chance I may be able to pay back. If I have a job like selling real estateI have never cheated people before.

MAGOON: Is there any way of you coming back in a couple of months, may be early next year, and show us whether you have improved your condition so that we can reconsider your case? We want to help you out as much as possible. In the face of the present condition, I don't feel I am doing the right thing by granting you a license. Is there a way you can borrow some money and pay back these people you owe to show your good intention?

VILLALBA: I have lots of people owing me money that I can collect.

MAGOON: What we would like to do is to check with the Federal government.

ODOM: Isn't there a penalty for not paying?

VILLALBA: I signed some kind of note but in the case like last month I don't make so much money so I can't pay.

MAGOON: I'll have Mr. Miyagawa bring this case back in another meeting. We don't want to deny you any license to practice real estate now. We have so many other things to take care now, so about the first of the year we'll take this case and give you every consideration, so, in the meantime, can you go out and see how you can justify yourself on some of these debts. We will get this checked with the government.

VILLALBA: Well, I made already.

MAGOON: Well, let's check.

MIYAGAWA: We can go together to the Federal Bureau.

MAGOON: Work on that as soon as you can and have this checked.

MIYAGAWA: Mr. Villalba, you come back on Thursday morning at 10:00 a.m., and we will go together.

VILLALBA: Okey.

MAGOON: Okey, thank you.

It was unanimously decided that this case be deferred for action until a further check with the Internal Revenue has been completed on Mr. Villalba regarding his tax liens. The Administrator was instructed to bring this matter before the Commission some time early next year for disposition.

Case of Antone C. Cacatian
Informal Hearing

In compliance with Section 7741, subparagraph 1, Chapter 150, Revised Laws of Hawaii, as amended, a hearing was called to revoke Mr. Antone C. Cacatian's real estate salesman's license. The Administrator read to the Commission a letter received from Kenichi Umemoto, Chief Clerk, Circuit Court of the Fifth Circuit, Lihue, Kauai, advising this office that Mr. Cacatian has been convicted of larceny by false pretenses, a felony. A letter has been written to Mr. Cacatian at Oahu Prison, informing him of the hearing. No writ of error has been filed since his admission to prison.

Mr. Cacatian did not appear at the hearing although he had

acknowledged our letter advising him of today's hearing. Upon a motion duly made by Mr. Odom, seconded by Mr. Yamamoto, and unanimously carried, the salesman's license of Mr. Cacatian was revoked.

Review of Results of Examination
Given to Broker Applicants Who
Made Borderline Grades

The following broker applicants were re-examined by the Administrator on Tuesday, November 23, 1954:

| <u>Name</u> | <u>Grade Made</u> |
|---------------------|-------------------|
| 1. Frank B. S. Wong | 79.83 |
| 2. Haruto Tanabe | 79.34 |
| 3. Asa Koki | 79.16 |
| 4. Wendy M. Ono | 78.66 |
| 5. Jay J. Mito | 78.17 |

Upon a thorough review of the results of the examination, Mr. Odom moved, seconded by Mr. Yamamoto, and unanimously carried that the above applicants have qualified for a broker's license, except in the case of Frank B. S. Wong. The Administrator was advised to brief him once more on the proper way of making out the closing statement and then qualify him for a broker's license.

Recommended Date for Next Series
of Real Estate Examinations

The recommended date and closing date for filing the applications were unanimously approved by a motion made by Mr. Odom and seconded by Mr. Yamamoto. The next series of real estate examinations Territory-wide will be as follows:

Date of Examination.....Saturday, February 19, 1955
Date for Application Deadline.....Monday, January 31, 1955

Request for Reinstatement

Mrs. Marion Bockus made application to request reinstatement of her real estate broker's license effective January 1, 1955. The Administrator recommended approval to the Commission since she has met all the requirements under the law. A motion was made by Mr. Odom, seconded by Mr. Yamamoto, and unanimously carried that Mrs. Bockus' license be reinstated effective January 1, 1955.

Request for Change of Business Trade Name

Mr. Ralph Yempuku, broker, made a formal request for a change of business name from "Pacific Properties" to "Pacific Real Estate."

This was necessitated because the former name is already registered with another corporation.

In order to avoid a recurrence of the above incident the Administrator was requested to require each applicant applying for a trade name to show a Treasurer's receipt approving the trade name by that office in the future.

Subscription to Cross Reference Directory

Mr. Odom moved, seconded by Mr. Yamamoto, and unanimously carried that the Commission renew its subscription for the cross reference directory at \$50.00 for a 12-month service. This reference book is needed for investigation on advertising violations by real estate brokers and salesmen.

Commission's Financial Report

The following Commission's financial report for the month of November 1954 was moved for acceptance subject to audit by Mr. Odom, seconded by Mr. Yamamoto, and unanimously carried:

| | | |
|--|---------------|-------------|
| Expenditures for November 1954 - office exp. | \$248.91 | |
| pay roll | <u>959.81</u> | |
| | | \$1,388.72 |
| Fees Collected in November 1954 | | 3,924.50 |
| Balance in Special Fund as of 11/30/54 | | \$20,430.59 |

Report on NALLO Convention

Mr. Eaton H. Magoon, Chairman, reported that there was a very good attendance at the NALLO Convention held in Cleveland, Ohio, from November 2-6, 1954, at Hotel Statler. Mr. Magoon commented on the excellent presentation made by Mr. Odom in the panel discussion he participated on the topic, "Advance Information to Applicants." (a mimeographed copy is made a part of the record)

It was the consensus of opinion of the members who attended it that this convention was equally attractive as the former ones and in fact, it was conducted in a more business like manner. The topics were well chosen and it was felt the Commission gained a great deal from this Convention.

Mr. Magoon reported that the racket of "collecting advance fees" seemed to be changing to "collecting advance advertising fees."

Copies of the report to the Governor upon completion of their travel by Mr. Magoon and Mr. Odom are attached as part of the record.

Review of Proposed Amendments to
Chapter 150, Revised Laws of
Hawaii, as Amended

1. The proposal to include in the definition of real estate broker and salesman the phrase "negotiates a loan for a commission" was unanimously approved.

2. The proposal to amend Section 7737, subsection 5, "To any person for a license unless such person has been a resident of the Territory for at least two years prior to such issuance;..." to substitute the word application instead of issuance was not approved. In connection to this, the question of restricting the licensing of foreign corporations was brought up. The Administrator was instructed to request an opinion of the Attorney General's office whether it would be possible to require a foreign corporation, whose principal place of business is away from the Territory, to remain in the Territory two years before it could be licensed.

3. The proposal to create inactive files for brokers and salesmen was not approved. However, it was felt that some thought should be given to licensees who go on educational leave, enter the armed services, go on sick leave, or remain from the Territory for an indefinite period of time and still wish to remain in good standing with the Commission.

4. The proposal to require a re-examination after two years of forfeiture of license was left for further discussion.

5. The proposal of splitting fees with licensed brokers of another jurisdiction was not approved.

6. The proposal to amend Section 7742 to stiffen the penalty to not more than six months' imprisonment or a fine of \$500 or both was opposed by the members.

Complaints and Violations

(a) Arthur Minoda vs. John S. Pahk, Broker - On November 12, 1954, Mr. Minoda complained to the Commission that John S. Pahk, broker, had sold his property and overcharged him approximately \$122.34 in the closing statement. Upon checking the closing statement, it was found that the actual discrepancy amounted to \$130.34. Mr. Pahk's attention was called to this discrepancy and was requested to give a written explanation on the matter. On November 16, 1954, Mr. Minoda came in to the office to report that he had received the overcharge from Mr. Pahk's office and, therefore, wish to withdraw his complaint. The Commission unanimously voted that this showed negligence on the part of the broker. The Commission instructed the Administrator to send to Mr. Pahk a reprimand letter for his negligence and to caution him that should he fail to properly account for monies as required under our law in any future real estate transaction, action will be taken to either suspend or revoke his license.

December 7, 1954

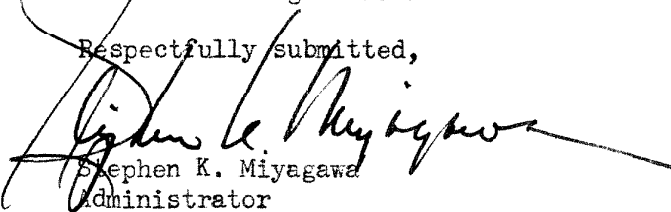
(b) James J. Morinaka, broker, vs. Joseph R. Pao, Broker - A complaint filed by Mr. Morinaka against Mr. Pao was read to the members. (see copy of complaint and report by Administrator attached) The Commission unanimously voted that this was a commission dispute between the brokers and not within the jurisdiction of this Commission. The Administrator was instructed to write to Mr. Morinaka and advise him to seek the services of an attorney if he wished to pursue this matter further.

(c) Case of John Haili, Broker - Mr. Haili was cited in violation of Rule 8, Rules and Regulations of the Real Estate License Commission, for advertising a business property in the Honolulu Star-Bulletin without disclosing the fictitious trade name registered with this Commission. The ad which appeared on November 30, 1954 was as follows:

"Income business property, 29,481 sq. ft. - street frontages 427 ft. For particulars phone 92261."

The Administrator reported that Mr. Haili made immediate correction. The Commission voted to send him a reprimand letter for his violation and to caution him to comply with our rules and regulations.

Respectfully submitted,


Stephen K. Miyagawa
Administrator

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