

REAL ESTATE COMMISSION
Professional & Vocational Licensing Division
Department of Regulatory Agencies
State of Hawaii

MINUTES OF MEETING

Date: Friday, July 25, 1980

Place: Board Room, Kamamalu Building
1010 Richards Street, Honolulu

Present: G. A. "Red" Morris, Chairman
Edwin H. Shiroma, Vice Chairman
Tadayoshi Ishizu, Member
Toru Kawakami, Member
Joseph Blanco, Member
Gregg T. Yamanaka, Member
John M. Urner, Member

Tany S. Hong, Director of Regulatory Agencies
Dan Lee, Administrator of RICO
Randall Y. Iwase, Deputy Attorney General
Sandy Holck, Real Estate Education Specialist
George Arine, Executive Secretary
Yukio Higuchi, Executive Secretary

John Spalding, President of Hawaii Assoc. of
Real Estate Schools
Ryon Rickard, Applicant for Broker license
James F. Nagle, Applicant for Salesman license

Absent: Ralph S. Yagi, Member
Francis N. Kauhane, Jr., Member

Call to Order: There being a quorum present, Chairman G. A.
"Red" Morris called the meeting to order at
9:24 a.m.

The Executive Secretary apprised that the agenda
for today's meeting was duly filed on Monday,
July 21, 1980, at the Lt. Governor's office
in compliance with the Sunshine Law.

Minutes: Toru Kawakami moved and Tadayoshi Ishizu seconded
to approve the minutes of June 27, 1980 as
circulated. Motion carried unanimously.

Committee
Reports: Real Estate Education Advisory Council

Joint Venture of Mary Shern School of Real
Estate and Jones/Spalding School of Real
Estate, Inc.

Joseph Blanco moved and Toru Kawakami seconded
to approve request to allow joint venture

classes of Jones/Spalding School of Real Estate, Inc. and Mary Shern School of Real Estate. Motion carried unanimously.

Real Estate Education Specialist Report

The approval of the expense cost of the Seminar was deferred at the last meeting.

Sandy Holck requested and received approval of the expense of the hand-out materials amounting to \$5,135.24. It was so moved by Toru Kawakami, seconded by Tadayoshi Ishizu and unanimously carried.

Laws and Rules Review Committee Report

Toru Kawakami reported that his committee met on July 24, 1980, and the committee made the following report.

Tradename registrations: Reported that it appears that we should continue to have the Commission approve all tradename applications as in the past. No action was necessary as there is no change being recommended.

Act 189, S.L.H. 1980: Reported that the Executive Secretary will prepare a clean copy of the proposed HPR rules, including the rules encompassing the requirements contained in Act 189, S.L.H. 1980. Toru Kawakami moved and Tadayoshi Ishizu seconded to approve the specimen affidavit and reservation agreement to be used by developers in conforming to the requirements of Act 189, S.L.H. 1980. Motion carried unanimously.

Individual corporation: Reported that this matter was discussed very briefly. Director Tany Hong was to follow up and see if arrangements can be made to hire an attorney on contract basis to study this issue. Director Tany Hong appeared to report that he had discussed this matter with the Attorney General whose approval is required of all request for legal services, and it appears that the A.G. is not favorable to hire a private attorney by contract to study this issue. Director further advised that he will discuss this matter with Deputy Attorney General Randy Iwase to set up a meeting in the near future.

Real Estate Recovery Fund

Gregg Yamanaka moved and Toru Kawakami seconded to rescind the notice of termination of license of Clayton K. H. Tom and to obtain court findings of facts for the next Complaint Review Committee meeting. Motion carried unanimously.

Business Out
of Minutes:

Questionable Applications

Kamuela Realty, Inc.

Toru Kawakami moved and Joseph Blanco seconded to defer action pending further advice from Attorney General on the application of Kamuela Realty, Inc. Motion carried unanimously.

Ryon Rickard (Broker Applicant)

Ryon Rickard requested an audience before the Commission to discuss his application and comments regarding the 2 year experience requirement.

After the question and answer period, Chairman Morris thanked Rickard for coming and said that the matter will be taken under consideration.

James F. Nagle (Salesman Applicant)

James Nagle was present to discuss his application and waived his rights to a formal hearing.

After the question and answer period, Edwin Shiroma moved and Toru Kawakami seconded to approve Nagle's application for salesman license. Motion carried unanimously.

Attorney General's Report re: Letter of 6/26/80

After discussion, Edwin Shiroma moved and Tadayoshi Ishizu seconded that the Commission has no jurisdiction in this matter and directed Executive Secretary to advise Albert Vincent that the Commission has no jurisdiction in this matter and the matter should be resolved by the parties concerned through civil remedies and not by the Commission.

RE-79-202 Tom Schmidt Realtors

Toru Kawakami moved and Joseph Blanco seconded to refer this matter to the Rules Committee for possible amendment of rules. Also to request investigator to check office for 2 weeks to monitor the office operations to determine whether the broker-in-charge is at the office during the 2 week period. Motion carried unanimously.

Kaiolu Conversion Venture

As requested, Edwin Shiroma moved and Tadayoshi Ishizu seconded to add this matter to the agenda. Motion carried unanimously.

Deputy Attorney General Randy Iwase appeared to discuss whether issuance of a final public report can be made prior to developer taking title to the property or have a master lease. Iwase feels that the existing law or rules does not contain any such requirement; therefore, Commission cannot withhold issuance of public report. He strongly stated that the Commission has responsibility to make complete disclosure in plain language in the public reports. Edwin Shiroma moved and Tadayoshi Ishizu seconded to require that all public reports shall contain all material information on financing, ownership, and encumbrances be stated in plain layman language after each legal description by the developer's attorney. Motion carried unanimously.

It was agreed that the Commission will not require the developer to have deed or master lease to the property prior to the issuance of a final public report until proper legislation is passed.

Chairman's Comments and Remarks

At the request of the Chairman, G. A. "Red" Morris, the Commission members agreed to allow the Chair to make some comments and remarks on the following items:

1. We'd like to see meetings run more efficiently. We should be discussing policies in developing programs, and discussions should be to the point and move as fast as we can.

2. The agenda for the Laws and Rules Committee should be developed and mailed to members prior to meeting.
3. Cut down the hours required to review complaints with the help of the Administrator of RICO.
4. Would like to discuss number of items in the goals and objectives of the Commission. Staff to assist with information and each Commissioner will be asked to follow through with some items. We should remember that our role is to protect the consumer.
5. Would like to move as rapidly on actions on complaints.
6. Would like to start the monthly meetings at 9:00 a.m. and finish the meetings earlier, and hopefully sit around and discuss other things such as policies and programs.

Following the Chairman's comments and remarks, there was a lengthy discussion as to how we can expedite our Complaint Review Committee meetings and disposition of cases. One suggestion was to have one or two investigators trained properly to be assigned to all real estate complaints. The investigator could be asked to appear at the Complaint Review Committee meetings to explain, discuss, and make recommendations on each case. The members could ask questions and if further investigation is necessary, specific instructions can be given directly to the investigator.

RE-79-136 Mike McCormack Realty

As requested, Edwin Shiroma moved and Toru Kawakami seconded to add to the agenda the above matter. Chairman G. A. "Red" Morris removed himself for possible conflict of interest and during this discussion, Edwin Shiroma chaired over this matter. Motion carried.

Kawakami moved and Tadayoshi Ishizu seconded to accept the Hearing Officer's Recommended Order and Commission's Final Order to (1) discontinue the operation of the Hanalei Bay Resort office until the branch office requirements are satisfied; and (2) accept a formal reprimand

for establishing the Hanalei Ray Resort office in violation of the requirements of the Chapter and the Commission's rules. Motion carried.

Investigations:

RE-80-25 Chaney, Inc. and Jim Vierkoetter

Following discussion, Joseph Blanco moved and Tadayoshi Ishizu seconded for further investigation for possible violation of Rule 1.3(f). Motion carried unanimously.

RE-80-26 Chaney, Inc. and Jim Vierkoetter

Edwin Shiroma moved and Tadayoshi Ishizu seconded to accept the Complaint Review Committee's recommendation to proceed to a formal hearing against Vierkoetter for possible violation of Section 467-14(12), H.R.S., and Rule 1.3(a) of the Commission's rules and regulations, for allowing Wallace to accept Levy's offer prior to cancellation of Benoist contract. Further recommend formal hearing against Aaron M. Chaney, principal broker of Chaney, Inc. and Robert Klaesson, broker-in-charge at Chaney, Inc., Kauai Branch Office, for possible violation of Section 467-14(12), H.R.S., and Rule 1.3(a), (b), (f), and (m) of the Commission's rules and regulations, for failure to supervise the real estate operations conducted at the Kauai Branch office of Chaney, Inc. and for failing to cancel the Wallace/Benoist sales contract in writing prior to placing the property back on the market, and for allowing such practice of Chaney's sales staff which was damaging to Levy. Motion carried unanimously.

RE-80-50 John Dilks

Edwin Shiroma moved and Tadayoshi Ishizu seconded to accept the recommendation of the Complaint Review Committee for dismissal of complaint on the basis that investigation indicates that Respondent had not acted unprofessionally or unethically. Motion carried unanimously.

RE-80-62 Forent Realty Corp.

After discussion, Edwin Shiroma moved and Tadayoshi Ishizu seconded to accept the Complaint Review Committee's recommendation for dismissal of complaint on the basis that investigation failed to substantiate the allegations made and there appeared to be no violation of the real estate license law or the Commission's

rules and regulations. Motion carried unanimously.

RE-80-63 Town Management, Inc.

Edwin Shiroma moved and Tadayoshi Ishizu seconded to accept the recommendation of the Complaint Review Committee to take no action against Iris Riber, who is president of Town Management, Inc. but refer the matter to OCP for unlicensed activity by Town Management, Inc. Motion carried unanimously.

RE-80-68 Island Resort Management, Inc. and Thomas Schmidt

Edwin Shiroma moved and Tadayoshi Ishizu seconded to adopt the Complaint Review Committee's recommendation for further investigation to acquire the following and to add item No. 4.

1. Copy of management contract
2. Cancel check of Gutierrez's security deposit (front and back)
3. Want accounting of \$600 security deposit. Where is the money now?
4. Was the \$600 deposited into client's trust account?

Motion carried unanimously.

RE-80-78 Levy Realty and Carol Matheny

Edwin Shiroma moved and Tadayoshi Ishizu seconded to accept the recommendation of the Complaint Review Committee to hold a formal hearing against Carol Matheny and Levy Realty for possible violation of Section 467-14(12), H.R.S., and Rule 1.4(b) of the Commission's rules in that the deposit check dated March 27, 1980 was not deposited with Escrow until April 3, 1980. Motion carried unanimously.

New Business:

LICENSING

Corporation

Carol Ball, Inc. - 13 Lono Ave. #170, Kahului
Carol M. A. Ball, pb

The Bell Co., Inc. - 1154 Fort St., #317, 319,
Michael R. Bell, pb Honolulu

Coa Investments, Ltd. - 733 Bishop St., #2141,
Alyce E. Patterson, pb Hon.

Farden Realty, Inc. - 745 Fort St., #2121,
Carl A. Farden Jr., pb Hon.

Gabrielsen & Company - #921 Davies Pacific Ctr
Norman L. Gazzano, pb Hon.

Hana'ole Corp. - Castle & Cooke Twr, 4th Flr,
R. E. Hagstrom, pb Hon.

Hawaii Real Estate Buyers Service, Inc. -
700 Richards St., #705, Hon.
George E. Kempf, pb

Home Resource, Inc. - 100 N. Beretania St.,
Roy T. Ogawa, pb #212, Hon.

Islands By The Sea, Inc. - 733 Bishop St., #1915
Alice J. Dunn, pb Hon.

J & J Realty, Inc. - 100 Pauahi St., #215, Hilo
Richard M. Jitchaku, pb

Markev, Inc. - 190 So. King St., #2400, Hon.
Charles S. Clark, pb

Pacific Acquisitions, Ltd. - 1154 Fort St.,
Tod J. Tsukano, pb #1B, Hon.

Wong's Enterprises, Ltd. - 1493 So. King St.,
Arthur Y. C. Wong, pb Hon.

Branch Office

Hugh Menefee, Inc. - 45-480 Kaneohe Bay Dr.,
Harold E. Dill, bic E6, Kaneohe

Partnership

Real Estate Investment Corp. of America -
190 So. King St., #2310, Hon.
James E. Whitfield, pb

Tradenname

Randy Cabanilla & Associates - Randolph R.
Cabanilla, dba

Selwyn Chan Realty - Selwyn S.P. Chan, dba

Daacon Real Estate Co. - Nenita L. Daacon, dba

Michael A. Ferrington Realty - Michael A.
Ferrington, dba

James E. Fleming Company - James E. Fleming, dba

Garden Island Properties - Joseph K. Metzger,
dba

Rothwell Realty - D'arcy G. Rothwell, dba

Clark L. Thompson Real Estate - Clark L.
Thompson, dba

Joseph Blanco moved and Edwin Shiroma seconded to ratify the applications for corporation, branch office, partnership and tradename as listed above. Motion carried unanimously.

Restorations - past 2 years

Herbert Y. Matsumoto

Joseph Blanco moved and Tadayoshi Ishizu seconded to deny Herbert Matsumoto's application for restoration of his forfeited license. Motion carried unanimously.

Wayland A. Minnick

Joseph Blanco moved and Edwin Shiroma seconded to deny Wayland Minnick's application for restoration of his forfeited license. Motion carried unanimously.

Ralph G. Rapp

Joseph Blanco moved and Tadayoshi Ishizu seconded to deny Ralph Rapp's application for restoration of his forfeited license. Motion carried unanimously.

John L. Tyrrell

Toru Kawakami moved and Tadayoshi Ishizu seconded to defer action on this matter to the August meeting when John Tyrrell can present his arguments. Motion carried unanimously.

Miscellaneous

Letter from Development of Hawaii re Act 189

This matter was earlier covered by Toru Kawakami in his Laws and Rules Review Committee Report under the subheading of "Act 189, S.L.H. 1980."

Execution of E.T.S. Contract

Toru Kawakami moved and John Urner seconded to approve E.T.S. contract. Motion carried unanimously.

Delegate Authority to Sign Public Reports

John Urner moved and Joseph Blanco seconded to authorize Chairman G. A. "Red" Morris to review and sign all public reports. In his absence, Vice Chairman shall review and sign. In the absences of both Chairman and Vice Chairman, any member of the Commission shall review and sign. Motion carried unanimously.

Announcement:

Conference for the Purpose of Forming the NARELLO Educators

No action was taken on this matter.

Chairman Morris announced that he had extended invitation to hold the Western District Conference on Maui in 1982.

National R.E. Investigator's School in Denver

John Urner moved and Edwin Shiroma seconded to send two of the investigators to the R.E. Investigator's School in Denver. Motion carried unanimously.

Meeting with Attorney General

A special committee meeting will be held on July 31, 1980 at 10:00 a.m. to discuss personal corporation problems with attorney general.

Date of Next Meeting:

Thursday, August 28, 1980
Board Room, Kamamalu Building

Adjournment:

There being no further business to transact, Chairman Morris adjourned the meeting at 4:30 p.m.

Taken and recorded by:



YUKIO HIGUCHI
Executive Secretary