

REAL ESTATE COMMISSION
Professional & Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

The agenda for this meeting was filed with the Lieutenant Governor's Office as required by Section 92-7(b), Hawaii Revised Statutes.

Date: Friday, July 24, 1987

Time: 9:08 a.m.

Place: Board Room, Second Floor
Kamamalu Building
1010 Richard Street
Honolulu, Hawaii

Present: Gloria J. Damron, Chairperson
Joseph Blanco, Member
Yoshiko Kano, Kauai Member
Marcus Nishikawa, Member
Constance Smales, Public Member (early departure)
Douglas Sodetani, Maui Member
Yukio Takeya, Hawaii Member
Peter Yanagawa, Member

Calvin Kimura, Executive Secretary
Cynthia Yee, Information Officer
Russell Wong, Assistant Information Officer
Irene Kotaka, Secretary
Grant Tanimoto, Deputy Attorney General
Rodney Maile, Hearings Officer
Lorrin Kau, Attorney for RICO
Richard Marshall, Attorney for RICO
Owen Tamamoto, Attorney for RICO

John Ramsey, Consultant
Milton Hirata, Consultant
Steve Gilbert, Real Estate Research
& Education Center
Eileen Luko, Education Director, HAR
Gary Au Young, Recovery Fund Counsel
Professor Ed Laitila
Kamran Hariri, Licensee
Wayne Parsons, Attorney for Mr. Hariri
William G. Meyer III, Attorney for
Madeleine Ming Stires
David Mortz, Licensee
Irene Morgans

Excused: Michele Matsuo, Public Member

Call to Order:

The meeting was called to order at 9:08 a.m. by Chairperson Gloria Damron. Quorum was established.

Additions to the Agenda:

Upon a motion by Commissioner Sodetani, seconded by Commissioner Kano, it was voted and unanimously approved to add the following to the agenda:

Reconsideration of Application for
Educational Waiver - Jeffrey Freauff

Restoration - Over 2 years
Tariq Shah, salesman
Ted Burkart, salesman

Questionable Applications
Vacations Forever, Inc.
Conley Dew
ETS Irregularity Report
Lonn Armour
Deborah Bradley

Approval of Minutes:

Upon a motion by Commissioner Kano, second by Commissioner Sodetani, the Commission unanimously approved the minutes of the June 26, 1987 Commission Meeting as circulated. The motion was voted on and unanimously carried.

Hearings Officer's Reports:

KAMRAN HARIRI AND BENEFICIAL REALTY,
RE-84-182 - ORAL ARGUMENT ON EXCEPTIONS

Commissioner Smales arrived.

Lorrin Kau, RICO Attorney, was present on behalf of the State. Mr. Hariri was present, along with his attorney, Wayne Parsons, Esq.

Mr. Parsons stated that they take exception to the allegation that Mr. Hariri did not disclose to Mr. Hansen that Ms. Julyan had purchased the property in question for \$98,000. Mr. Parsons stated that the Hansen/Julyan DROA, dated April 10, 1984, signed by Mr. Hansen stated that Mr. Hansen saw the Char/Julyan agreement of sale.

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With regard to the allegation of Mr. Hariri forging the \$150,000 appraisal, Mr. Parsons challenged Mr. Kau to show evidence of the forged appraisal. Mr. Parsons stated that there was an appraisal report which disclosed to Mr. Hansen to show him what was wrong with the property and what needed to be done.

Mr. Parsons requested that the Commission not revoke Mr. Hariri's license but instead suspend Mr. Hariri's license for 90 days. Mr. Parsons also asked that the license to Beneficial Realty be left alone so that the business could be sold.

Mr. Hariri stated that he has surrendered his license as he no longer wishes to do business as a realtor.

Mr. Kau stated that the facts should be argued in front of those who were present at the original hearings. He stated that Ms. Crandall, Judge Hirano, and the jury all found Mr. Hariri guilty of misrepresentation. Mr. Kau recommended that the Commission affirm the Hearings Officers Recommended Order.

Upon a motion by Commissioner Takeya, second by Commissioner Sodetani, it was voted and unanimously carried to accept the Hearings Officer's Findings of Facts and Conclusions of Law and Recommended Order.

HAROLD C. LUNDBURG, PAUL STRAUCH, JR.
AND PROPERTY HOUSE, INC., RE-86-205

Commissioner Sodetani moved to accept the settlement agreement. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

JAMES W. STINSON, JAMES W. STINSON, INC.
AND KATHLEEN M. FLETCHER, RE-84-253

Commissioner Sodetani moved to accept the settlement agreement. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

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SEBASTIANO VANI AND PROFESSIONAL RENTAL MANAGEMENT CORPORATION, RE-85-147, 85-260, 86-17, 86-43, 86-45, 86-51, 86-79, 86-82, 86-56, AND 86-252

After a discussion regarding the corporation license, bonding requirements, certificate of deposits, responsibility of principal broker, and restitution, the matter was taken under advisement with the Hearings Office to provide a written report.

Upon a motion by Commissioner Takeya, second by Commissioner Blanco, it was voted on and unanimously carried to take this matter under advisement.

MADELEINE MING STIRES AND E.M.A., LTD., RE-85-182

William Meyers III, Esq. represented the respondent, Madeleine Ming Stires. Richard Marshall, RICO Attorney, was present on behalf of the State.

Mr. Meyers stated that he was advised by the Licensing Branch that Ms. Stires had surrendered her broker's license along with the assignment of broker's license with E.M.A., Ltd. effective June 30, 1987. Mr. Meyers therefore requested that the action to revoke Ms. Stires's license be dismissed.

Mr. Marshall stated that the State does not allow individuals with pending disciplinary actions to voluntarily surrender their licenses. Mr. Marshall objected to bringing this matter before the board and stated that the discussion should be limited to the exceptions filed.

Chairperson Damron ruled that its was an improper motion at this time and proceed with oral arguments.

Mr. Meyers presented his oral exceptions. One of the allegations was that Ms. Stires failed to maintain a place of business in Hawaii. Mr. Meyers stated that she did maintain a place of business in Hawaii but she failed to notify the Commission of a

change of address. The Commissioner should have been advised of a change in office location. When applying for a broker's license, she used the address of a mail drop. Shortly after obtaining her license, she did obtain an office but failed to notify the Commission. Another allegation was that Ms. Stires failed to research the values of property in Illinois that the Higas had purchased and that the property was worth less than the purchase price. It alleges that a Caterpillar plant located in the town that the Higas had purchased had been shut down and because of that there was a severe economic depression in the area. He finds exception with the fact that the record does not indicate whether or not the plant was shut down. After purchasing the property, the Higas discovered that the property was worth less than the purchase price and wanted to cancel the transaction. They were informed by Ms. Stires that it was too late to cancel and they, in turn, sued Ms. Stires. Judge Tom ruled that Ms. Stires did not pay careful enough attention to the details but did not find any fraudulent activity on behalf of Ms. Stires.

Prior to applying for her broker's license, Ms. Stires was employed by Horita Realty as a salesperson. She disclosed that she had made sales while at Horita Realty. When the Custodian of Records at Horita Realty was questioned if there were records of Ms. Stires making any transactions while there, the Custodian replied that they don't have any records. The conclusion was that while at Horita Realty, Ms. Stires made no sales and leases. Mr. Meyers then discovered evidence of Ms. Stires having participated in sales and leases while at Horita Realty and requested to submit it into the record.

Mr. Marshall stated that the arguments were presented to the Hearings Officer at prior hearings and that all of the evidence is presented in the findings of fact submitted by the Hearings Officer.

The Findings of Facts and Conclusions of Law adequately supports the recommendation made by the Hearings Officer. The State recommends support of that recommendation.

Executive Session

Upon a motion by Commissioner Sodetani, second by Commissioner Takeya, it was voted and unanimously carried to enter into Executive Session, pursuant to Section 92-4, at 10:33 a.m.

Upon a motion by Commissioner Sodetani, second by Commissioner Kano, it was voted on and unanimously carried to move out of Executive Session at 10:52 a.m.

Commissioner Blanco moved to take this matter under advisement. Commissioner Sodetani seconded the motion. The motion was voted on and unanimously carried.

Commissioner Kano informed Mr. Meyers that if there is a notary public within the State of Hawaii not doing the her job as a notary, that person should be reported to the Attorney General's Office.

Mr. Meyers clarified that point by stating that the notary did not have her notary book. There wasn't any elaboration on what happened to the notary book.

Mr. Meyers requested permission to add to the record information that the Judgment against Ms. Stires has been satisfied.

Mr. Marshall objected to that information being introduced.

Chairperson Damron declared Mr. Meyers request an improper motion.

Recovery Fund
Orders:

L. HOWARD COOK AND DARCY COOK VS. ROBERT
GADDES, DBA CONDOPLUS, CIVIL NO. H86-1755

The Commission reviewed Consultant Au Young's recommendation. Commissioner Yanagawa moved to pay from the Recovery Fund a total of \$6,316.76 for the claim against the licensee. The motion was seconded by Commissioner Smales, voted and unanimously carried.

Committee Reports:

EDUCATION COMMITTEE

Upon a motion by Commissioner Blanco, second by Commissioner Takeya, it was voted and unanimously carried to accept the following recommendations of the July 23, 1987 Education Committee Meeting as circulated:

1. Approve that the Educational Testing Service (ETS) bear the Commission's expenses relating to the Commission's defense of all claims relating to ETS administration of the licensing exams.
2. Approve Alexander Brother's estimated proposal for \$3,500 for partition wall units.
3. Approve execution of the contract with Makiya and Sakai to conduct an audit of the Recovery Fund and the Education Fund for \$30,000 covering the years ending June 30, 1987, 1986, 1985, and 1984 subject to the expenses of the audit being prorated as follows: \$18,000 to the education fund and \$12,000 to the general fund.
4. Approve the University of Hawaii's Small Business Management Program's proposal to administer the Commission's "Legislative Rule and Agency Update" Seminar for the actual costs incurred for materials and services plus an administrative fee of \$2,400 per series of seminars.
5. Approve execution of contract with Yukio Naito, Esq. to coordinate and supervise the efforts of a study group investigating the issues and problems relating to the Commission's administration of the condominium and cooperative laws and to embody in a

report the study group's findings and recommendations to the Real Estate Commission, together with the needed legislation for \$12,000 plus amounts up to \$6,000 to cover the study group's support staff expenses.

Approve amending the scope of services with Mr. Naito to include his legislative appearance and his giving of legislative testimony for the same amounts as stated above.

6. Approve the expenditure of \$1,500 to sponsor a joint project with NARELLO relating to the development of a research support system for regulators.
7. Approve initial nomination of Cynthia Alm and Dr. Nicholas Ordway for the National Examining Committee.
8. Approve payment of air fare, per diem, and expenses from the Education Fund for Grant Tanimoto, Deputy Attorney General, subject to his making the plane reservations 14 days prior to the departure date and for the RICO representatives, up to one-half of the expenses, per diem, and air fare for each of their two participants subject to RICO's matching the Commission's subsidy per person. Mr. Tanimoto and the two RICO representatives will be attending the CLEAR Conference in Kansas City, Missouri.
9. Approve the sales instructor application of Ralph Foulger. Mr Foulger's application for a broker's instructor certification shall be approved when Mr. Foulger has gained sufficient experience as a broker. Mr. Foulger has been licensed as a broker since May 1987.

EDUCATIONAL REQUIREMENT

After a review of the course curriculum for the Real Estate 300 and 310 courses offered by the University of Hawaii, it was determined that these courses are

equivalent to the prescribed curriculum for real estate pre-licensing schools. The curriculum covers Hawaii's real estate licensing laws and rules.

Commissioner Blanco moved to accept the Real Estate 300 and 310 courses as meeting the educational requirement for licensing. Commissioner Yanagawa seconded the motion. The motion was voted on and unanimously carried.

Commissioner Sodetani felt that the licensees should not be granted an educational waiver based on the same exemption twice. Licensees have used the same educational waiver category when applying for their broker's license that they used when applying for their sales license.

This matter has been referred to the Education Committee for investigation.

REAL ESTATE RESEARCH AND EDUCATION CENTER -
UNIVERSITY OF HAWAII

At the request of Dean Bess, Steve Gilbert relayed a message to the Commission.

It is a University policy that wherever the University or the Real Estate Research and Education Center is mentioned as providing funding for informational materials, the names of the Board of Regents should appear as well.

Commissioner Takeya moved that Dean Bess be invited to appear before the Commission to explain this policy further. Commissioner Blanco seconded the motion. The motion was voted on and unanimously carried.

AGENCY DISCLOSURE

The Commissioners were given until the close of business Monday, July 27, 1987 to review and make corrections to the agency materials.

Commissioner Blanco moved that the following materials be approved for final printing: Consumer Guide to Agency, Make Agency Work for You, Working with a Real Estate Broker, and Understanding Agency Disclosure. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

Commissioner Blanco recommended that the original agency disclosure tape be presented to Special Assistant Morris.

1987 ANNUAL REPORT

The proposals for the printing of the 1987 Annual Report were circulated prior to the meeting.

Commissioner Kano moved to approve Myers Advertising for the printing of the annual report because of their ability to execute materials in a timely manner, good communication skills, and professionalism. The estimated cost for the Annual Report will be \$20,348 plus tax for two-color printing.

The proposed table of contents was circulated to the Commission for their review.

Commissioner Blanco commended Mr. Wong, the Assistant Information Officer, for the informational materials that he has produced.

ADVISORY COUNCIL

Chairperson Damron circulated a list of the proposed candidates for the vacancies on the University of Hawaii's Advisory Council.

Chairperson Damron recommended that Dr. Nicholas Ordway be invited to the Education Committee Meeting on August 12, 1987 to discuss the possible candidates for appointment to the Advisory Council. It was recommended that the Special Assistant to the Real Estate Commission, Red Morris, be included as a candidate for appointment.

EDUCATION AWARDS

The Commission will be submitting papers for the education awards to be selected by the National Association of Real Estate License Law Officials (NARELLO) and the Real Estate Educators Association (REEA). The subject of the papers will be agency disclosure.

LAWS AND RULES REVIEW COMMITTEE

Upon a motion by Commissioner Takeya, second by Commissioner Sodetani, it was voted and unanimously carried to accept the following recommendations of the July 23, 1987 Laws and Rules Review Committee Meeting as follows:

1. Approve the Pertinent Facts Study Report completed by Consultant J. M. Rolls, Jr.
2. The Special Assistant to the Real Estate Commission, G. A. "Red" Morris, shall be asked to assist in the second phase of the pertinent facts study which will address the seller's responsibility.
3. The parking stall apartment issue will be referred to the Condominium/Cooperative Study Group for further discussion and recommendations.

CONDOMINIUM HOTEL OPERATORS

Commissioner Nishikawa reported that he will present a report on the status of the Condominium Hotel Operators Study at the September 3, 1987 Commission Meeting.

REAL ESTATE COMMISSION TRAVEL

The Executive Secretary expounded as follows:

1. Travel requests requires the most "paper work" and authorizations by the staff.
2. Travel requests reviewed are reviewed by a number of persons and examined carefully.

3. Request a commitment for those on travel request to attend and only cancel under dire emergencies.
4. That those who attend seminars/conferences/meetings, report back to those who did not attend, the information and documents received. If possible work the sharing of the information through the staff.
5. On car rentals, as per documents passed out, no reimbursement for additional insurance coverage.

The Executive Secretary informed the Commission that he has received approval for four Commissioners and one staff member to participate and attend the Annual NARELLO Convention, in Philadelphia, Pennsylvania from October 11 to 14, 1987.

Commissioner Smales raised a concern over the number of Commissioners attending the NARELLO Annual Convention.

Upon a motion by Commissioner Sodemani, second by Commissioner Smales, it was voted and unanimously carried to fund the air fare, per diem, incidentals and registration fees for Chairperson Damron, Commissioners Blanco, Sodemani, Matsuo, and Special Assistant Morris to attend the NARELLO Annual Convention in Philadelphia, Pennsylvania, and to fund the air fare, per diem, and incidentals for Commissioner Blanco and Special Assistant Morris to attend the NARELLO Strategic Planning Committee Meeting and the other special meetings being called by the President of NARELLO in San Francisco, on August 27 to 29, 1987.

The Executive Secretary was asked to develop guidelines for Commission travel.

Commissioner Smales was excused from the meeting.

Licensing:

Restorations

Yoshie Bell
Ted Burkart

Broker
Salesman

Michele A. Gabrielle	Salesman
Benjamin Gudoy	Broker
Stephen Hu	Salesman
Chester K. Okuno	Salesman
Janet A. Reed	Salesman
Tariq Shah	Salesman
John R. Strom	Salesman
P. Harrison Thurston	Broker

After a review of the information submitted by the applicants, Commissioner Sodetani moved the restoration be approved upon successfully passing the respective real estate licensing examination. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

Questionable Applications

Plumb, Level & Square, Ltd. dba The Harris Company

After a review of the information submitted, Commissioner Blanco moved to deny the application for registration of the tradename. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

Gresham, Kirkley & Associates, Inc.

Upon a motion by Commissioner Takeya, second by Commissioner Kano, it was voted and unanimously carried to refer this matter to the Executive Secretary for review and decision.

David A. Mortz

Mr. Mortz was present to request that the Commissioner waive the 90 day deadline rule on his application. Ms. Irene Morgans was present to testify on his behalf to state that she was responsible for the untimely submittal of Mr. Mortz's application.

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After a review of the information presented and submitted, Commissioner Takeya moved to deny the request for a waiver of the 90 day rule. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Consolidated Maui, Inc.

After a review of the information submitted, Commissioner Sodetani moved to approve the request for zoning waiver. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

Azabu Realty, Inc.

"Azabu" is the name of a district in Japan, a major international corporation, and a recognizable tradename.

After a review of the information submitted, Commissioner Takeya moved to approve the application for corporation. Commissioner Blanco seconded the motion. The motion was voted on and unanimously carried.

Jeffrey Freauff

Applicant has a voluntary inactive Oregon license as of April 1987.

After a review of the information submitted, Commissioner Sodetani moved to deny the request for reconsideration for an educational waiver. Commissioner Takeya seconded the motion. The motion was voted on and carried. Commissioners Blanco and Yanagawa opposed the motion.

Vacations Forever, Inc.

Zoning does not allow a real estate business. Zoning is in a resort hotel district, applicant to do time sharings sales for subject building and other projects.

After a review of the information submitted, Commissioner Blanco moved to deny the application for waiver of the zoning requirement. Commissioner Takeya seconded the motion. The motion was voted on and carried.

Conley Dew

Ms. Dew has requested permission to open a resource room in Kailua for her staff to utilize.

This matter was referred to the Executive Secretary for decision.

Executive Session

Upon a motion by Commissioner Blanco, second by Commissioner Takeya, it was voted and unanimously carried to enter into executive session, pursuant to Section 92-4, to discuss licensing issues at 1:15 p.m.

Upon a motion by Commissioner Blanco, second by Commissioner Takeya, it was voted and unanimously carried to move out of executive session at 1:20 p.m. and to resume the meeting.

Lonn Armour

After a review of the information submitted by the applicant, Commissioner Sodehani moved to approve Mr. Armour's application for a salesman's license.

Deborah Bradley

Ms. Bradley is requesting a waiver to the three listings and closings requirement.

After a review of the information submitted by the applicant, Commissioner Takeya moved to deny the application for waiver of the experience requirement. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

ETS Supervisor's Irregularity Report

Upon a motion by Commissioner Blanco, second by Commissioner Kano, it was voted and unanimously carried to request more information from the Educational Testing Service (ETS) on the Irregularity Report before making a decision on the releasing of a test score.

Next Meeting: September 3, 1987, 9:00 a.m.
Kaanapali Alii Hotel
Kaanapali, Maui

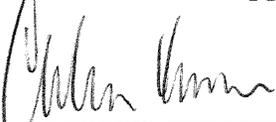
Adjournment: With no further business to discuss, Chairperson Damron adjourned the meeting at 1:30 p.m.

Respectfully submitted,



Irene S. Kotaka, Secretary

Reviewed and approved:



Calvin Kimura, Executive Secretary

August 27, 1987
Date