

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

MINUTES OF MEETING

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

Date: Friday, February 24, 1989

Time: 9:00 a.m.

Place: Ewa Room, Third Floor
James Campbell Building
828 Fort Street Mall
Honolulu, Hawaii

Present: Gloria Damron, Chairman
Yoshiko Kano, Kauai Member
Marcus Nishikawa, Member
Douglas Sodetani, Maui Member
Peter Yanagawa, Member
Constance Smales, Public Member
Yukio Takeya, Hawaii Member

Calvin Kimura, Executive Secretary
Cynthia Yee, Information Officer
Russell Wong, Assistant Information Officer
Glenn Grayson, Deputy Attorney General
Irene Kotaka, Secretary

John Ramsey, Consultant
Jean Creaddick, RICO Attorney
Carla Poirier, RICO Attorney

Eileen Luko, Education Director, HAR
John Reilly, Interested Participant
David Schutter, Attorney for Sebastiano Vani

Absent: Michele Matsuo, Public Member
Larry Ordonez, Public Member

Call to Order: Chairman Damron called the meeting to order at 9:10 a.m., at which time quorum was established.

Approval of
Minutes:

Upon a motion by Commissioner Takeya, seconded by Commissioner Smales, it was voted on and unanimously carried to approve the January 4, 1989 Real Estate Commission Meeting Minutes as circulated.

Additions to
the Agenda:

Upon a motion by Commissioner Sodetani, seconded by Commissioner Yanagawa, it was voted on and unanimously carried to add the following items to the agenda:

4. Disciplinary Cases
 - c. Joan Toscano, RE 87-501
5. Committee Reports
 - a. Education Committee
 - (1) Continuing Education Provider Applications
 - (a) Dwyer Imanaka and Schraff
 - (b) Vitousek Real Estate School
 - (2) Continuing Education Instructor Applications
 - (a) Paige Vitousek
 - (b) Arden Moore
 - (3) Funds Investment
6. Licensing - Restoration of Forfeited License
 - a. Over 2 years - Broker
 - (1) Yim, Evan H. M.
 - b. Over 2 years - Salesperson
 - (1) Blackman, Philip S.
 - (2) Fuller, James E.
 - (3) Jones, Maurice B.
 - c. Reconsideration
 - (1) James, Ted
 - (2) Albrecht, Sandy
7. Licensing - Questionable Applications
 - a. Kaijima International Inc.

Hearings
Officer's
Reports:

SEBASTIANO VANI AND PROFESSIONAL RENTAL MANAGEMENT; RE 85-147, ET AL.

Mr. Vani's attorney, David Schutter, was present to answer any questions the Commissioners may have regarding the

settlement agreement. Jean Creaddick, RICO Attorney, was present on behalf of the State.

Mr. Schutter stated that the original settlement agreement required that a fine be paid but did not mention if restitution was made to the consumers harmed. The First Amended Settlement Agreement requires that a fine be paid and that restitution be made. Mr. Schutter stated that Mr. Vani has agreed to make restitution even though he did not keep the money.

Ms. Creaddick stated that there are varying reasons for both parties to enter into a settlement agreement. They give the matter serious consideration prior to agreeing to a settlement agreement.

Commissioner Yanagawa questioned the terms of the particular settlement agreement. The respondent is to pay \$2,500 within 30 days of approval of the board's final order and the balance is to be paid one year from the entry of the final order. The license will be suspended immediately and automatically if the terms of the settlement agreement are not met. Commissioner Yanagawa questioned whose responsibility it would be to see that the complainants are paid.

Ms. Creaddick stated that the State has a trust account in which the money would be deposited. She would be responsible for seeing that these payments are made to the complainants. The complainants are aware that there is a possible settlement pending. The Commission would be the ones to receive written waivers from complainants who waive their rights to restitution.

Upon a motion by Commissioner Sodetani, seconded by Commissioner Yanagawa, it was voted on and unanimously carried to approve the First Amended Settlement Agreement After Petition and Board's Final Order.

KAMUELA REALTY AND SANDRA BERGMAN; RE 86-63

Upon a motion by Commissioner Takeya, seconded by Commissioner Kano, it was voted on and unanimously carried to approve the Hearings Officer's Findings of Fact, Conclusions of Law, and Recommended Order.

HAROLD FULLER; RE 84-228

Upon a motion by Commissioner Takeya, seconded by Commissioner Sodetani, it was voted on and unanimously carried to approve the Hearings Officer's Findings of Fact, Conclusions of Law, and Recommended Order.

ISABELLA MADEIRA; RE 83-147A

Carla Poirier, RICO Attorney, was present to request that the Hearings Officer's Recommend Order be clarified to include the provision that should Ms. Madeira reapply for her license, she would have to pay the \$250 fine and an additional \$500 fine prior to reinstatement of her license because she failed to comply with the terms of the Commission's Final Order.

The Commission requested that any licensee whose license is suspended or revoked should immediately submit their wall certificates and pocket cards to the Real Estate Commission. This should be made a part of any Settlement Agreement, the Hearings Officer's Recommended Order, and/or Final Order.

Upon a motion by Commissioner Sodetani, seconded by Commissioner Takeya, it was voted on and unanimously carried to approve the Hearings Officer's Findings of Fact, Conclusions of Law, and Recommended Order with the clarification that all fines would have to be paid prior to reinstatement of Ms. Madeira's license.

JUNE LUDWICK AND ALOHA STATE REALTY; RE 87-481

Ms. Poirier stated that she had filed a motion requesting that further sanctions be imposed upon Ms. Ludwick because of failing to comply with the terms of the Final Order. Ms. Ludwick's license was suspended for 3 months because she did not comply with the Final Order. Upon filing the motion, Ms. Ludwick paid the fine.

The Hearings Officer's Findings of Fact, Conclusions of Law, and Recommended Order recommended that the respondent's license be revoked but stayed on the condition that she not have any further violations for the next two years.

Upon a motion by Commissioner Sodetani, seconded by Commissioner Yanagawa, it was voted on and unanimously carried to approve the Hearings Officer's Findings of Fact, Conclusions of Law, and Recommended Order.

HALFORD B. ELSTON; RE 87-90, ET AL.

Upon a motion by Commissioner Sodetani, seconded by Commissioner Yanagawa, it was voted on and unanimously carried to approve the Settlement Agreement but deny Mr. Elston's request for non-publication.

Commissioner Smales was excused from the meeting.

NICKI C. BERG AND MARSHALL F. GOLDMAN; RE 85-134

Upon a motion by Commissioner Sodetani, seconded by Commissioner Takeya, it was voted on and unanimously carried to approve the Settlement Agreement.

JAMES WODEHOUSE AND LANCE LUKE; CON 87-8

Upon a motion by Commissioner Sodetani, seconded by Commissioner Yanagawa, it was voted on and unanimously carried to approve the Settlement Agreement.

Disciplinary
Cases:

JOAN TOSCANO; RE 87-90 ET AL.

After a review of the information submitted by the applicant, Commissioner Sodetani moved that the Commission approve Ms. Toscano's request to take the Graduate Realtors Institute 201 course to meet the course requirement for the Commission's Final Order. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Committee
Reports:

EDUCATION COMMITTEE

Upon a motion by Commissioner Nishikawa, seconded by Commissioner Takeya, it was voted on and unanimously carried to approve the recommendations of the February 8, 1989 Education Committee Meeting as follows:

1. Approve the Education Fund and Recovery Fund Report prepared by the Assistant Information Officer, dated February 6, 1989 for the period ending December 31, 1988.
2. Delete the proposed 50% new question requirement for the continuing education reexamination.
3. Approve the vigorous enforcement of the proposed rule requirement that licensees produce current pocket license identification cards or notification of licensure as a condition to entering all continuing education courses.
4. Oppose and inform the county zoning agencies and the Hawaii Association of Realtors of the Commission's opposition to House Bill No. 384 proposing that real estate licensees be permitted to maintain their place of business in any location, not just locations zoned for businesses.
5. Oppose House Bill No. 450, an appropriation bill for the production of a consumer pamphlet on leasehold issues.

6. Approve the following continuing education instructor applications for the following respective continuing education course modules:

Mitchell Imanaka - Contracts and Laws
Update and Ethics
Lewis S. Trusty - Contracts and Finance
Lloyd K. Sodetani - Contracts and Laws
Update and Ethics
Brian Thomas - Laws Update and Ethics and
Contracts
Paige Vitousek - Laws Update and Ethics
Arden Moore - Laws Update and Ethics

7. Approve the following continuing education provider applications for the following:

Dwyer Imanaka & Schraff - Subject to
submission of catalog brochure
Vitousek Real Estate School - Subject to
submission of bond and list of
instructors

8. Approve the following continuing education courses offered by the Hawaii Association of Realtors:

April 25, 1989 - Contracts
May 16, 1989 - Finance

9. Approve the investment of \$600,000 for 60 days for the Real Estate Education Fund and the investment of \$200,000 for 60 days for the Real Estate Recovery Fund.

Commissioner Nishikawa was not able to attend the first Advisory Council meeting with the new Council members. Commissioner Nishikawa has asked the Council to be more involved with the Real Estate Research and Education Center. It has been suggested that the Advisory Council look into other means for funding the Center. Currently the Real Estate Commission's Education Fund is the major source of funding for the Center. Since the Commission is

funding the basic costs, the Commission's projects should be considered priority.

CONTINUING EDUCATION SUBCOMMITTEE

Upon a motion by Commissioner Nishikawa, seconded by Commissioner Takeya, it was voted on and unanimously carried to approve the recommendations of the February 15, 1989 Continuing Education Subcommittee Meeting as follows:

1. Approve the following submission time requirements for provider registration:

New Provider - C. E. Module, First time offering, 45 days

Approved Provider with approved instructor - Subsequent offering of approved module course, 10 days

New provider - Offering elective course, 90 days
2. Approve amending the proposed rule requirement of readministration of an exam to a "new test" requirement.

The Real Estate Research and Education Center (Center) shall provide a master copy of the student workbook to an approved provider who shall be responsible for distribution of copies to students.

The Center reports that the Contract Module is virtually finished. The Finance Module is being revised and should be completed in three weeks. The Ethics Module's student workbook is intact and it is being redone.

CONDOMINIUM AND COOPERATIVE REVIEW COMMITTEE

Upon a motion by Commissioner Yanagawa, seconded by Commissioner Sodetani, it was voted on and unanimously carried to approve the

recommendations of the February 23, 1989
Condominium and Cooperative Review Committee
Meeting as follows:

1. The metes and bounds measurements not be permitted in defining the "apartment" or "unit" in agricultural condominium projects.
2. Amend the Sales to Owner-Occupants section to allow for a lottery system in lieu of compiling a reservation list based on first come-first served prospective purchasers.
3. Approve the use of standard owner-occupant affidavit forms by developers. The form shall be prescribed by the Real Estate Commission.

Agricultural condominiums: The Committee had suggested that if the Legislature is seeking to prohibit "ohanas," then the Commission should request that the Legislature prohibit agricultural condominiums. Commissioner Takeya felt that the Commission should not be the one to restrict ohana zoning or agricultural condominiums because it is a land use issue.

Upon a motion by Commissioner Yanagawa, seconded by Commissioner Sodetani, it was voted on and carried to request that if the Legislature seeks to prohibit "ohanas", then the Commission is to request prohibition on agricultural condominiums from the Condominium Property Regime. Commissioner Takeya opposed the motion.

LAWS AND RULES REVIEW COMMITTEE

Upon a motion by Commissioner Takeya, seconded by Commissioner Kano, it was voted on and unanimously carried to approve the recommendations of the February 23, 1989 Laws and Rules Review Committee Meeting as follows:

1. Approve that Commissioners Damron, Takeya, Sodetani, and Nishikawa, along with the Executive Secretary, attend and represent the Commission at the Haseko Realty, Inc. Meeting with the Real Estate Investment and Trade Study Mission on March 13, 1989, at 10:30 a.m. at the Hilton Hawaiian Village. In that, the Education Fund to fund travel and per diem for neighbor island commissioners.
2. Staff to approve all applicants who have submitted zoning forms for "home occupation" in the City and County of Honolulu if they have complied with standards and prohibited uses of Land Use Ordinance, Section 3.140-1. In that, the broker may not have salespersons who do not reside at the "home occupation" address.
3. Information received by Commission staff that a person with an inactive, forfeited, suspended, terminated, or revoked license who is conducting real estate activity be forwarded to RICO.
4. Approve the second amended travel roster for the remainder of 1988-89.

Commissioner Sodetani requested that the Commission and staff meet with the Complaints Enforcement Officer, Chief Investigator, and Supervising Attorney of the Regulated Industries Complaints Office to discuss the handling of matters referred to RICO by the Commission.

Executive
Session:

Upon a motion by Commissioner Takeya, seconded by Commissioner Kano, it was voted on and unanimously carried to enter into executive session at 11:35 a.m., pursuant to Chapter 92-5(a)(1), "To consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in Section 26-9 or both;"

Welsh, David W.	Salesperson
Kuo, Peter A.	Salesperson
Loo, Michael Y. M.	Salesperson
Wong, Abraham T. C.	Salesperson
Young, Paul Y. C.	Salesperson
Fuller, James E.	Salesperson
Jones, Maurice B.	Salesperson

After a review of the information submitted by the applicants, Commissioner Sodetani moved that restoration be approved upon submitting evidence of successfully passing the real estate salesperson's licensing examination, with a one-time waiver of the educational requirement. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

Rickard, Cathy Salesperson

After a review of the information submitted by the applicant, Commissioner Sodetani moved to approve the restoration of the applicant's real estate salesperson's license upon payment of the fees. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

Blackman, Philip S. Salesperson

Discussion on Mr. Blackman's application was deferred until further information could be received from Mr. Blackman.

Foley, Bill

After a review of the information submitted by the applicant, Commissioner Sodetani moved to deny Mr. Foley's request for reconsideration and that the Commission's Final Order, dated December 19, 1988 stands. The motion was seconded by Commissioner Kano, voted on and unanimously carried.

Stephens, Michael

After a review of the information submitted by the applicant, Commissioner Sodetani moved to

deny Mr. Stephen's request for reconsideration and that the Commission's Final Order, dated October 3, 1988 stands. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Benson, Pearl R.

After a review of the information submitted by the applicant, Commissioner Sodetani moved that restoration of forfeited license be approved upon successful completion of the appropriate real estate prelicensing course. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

Jackson, Orin S.

After a review of the information submitted by the applicant, Commissioner Sodetani moved to deny Mr. Jackson's request to waive the payment of the restoration fee. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Johnson, J. Allen

Mr. Johnson was present to request that the Commissioner reconsider its previous decision ordering that he successfully pass the real estate broker's examination as a condition to restoring his forfeited license. Mr. Johnson stated that he teaches advanced courses for the CI Council and that he has taught GRI courses and gave a synopsis of his education and experience.

After review of the information submitted by the applicant, Commissioner Yanagawa moved that based on Mr. Johnson's experience, educational qualifications, and continued competency of the applicant, Mr. Johnson's license be restored immediately and that he provide 32 hours of service to the Real Estate Research and Education Center. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Albrecht, Sandra

After a review of the information submitted by the applicant, Commissioner Sodetani moved that restoration of forfeited real estate license be

approved upon submitting evidence of successful completion of the salesperson's prelicensing course. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

James, Ted

After a review of the information submitted by the applicant, Commissioner Sodetani moved that because of Mr. James's expertise, and continued competency, his license be restored immediately and that he provide 32 hours of service to the Real Estate Research and Education Center. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

QUESTIONABLE APPLICATIONS

Kriscor Realty of Hawaii, Inc.

Upon a motion by Commissioner Sodetani, seconded by Commissioner Takeya, it was voted on and unanimously carried defer discussion to the March 1989 Real Estate Commission meeting.

Handa Corporation

After a review of the information submitted by the applicant, Commissioner Sodetani moved that this matter be referred back to Commission staff. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

Akiko Nakashima Realty, Inc.

After a review of the information submitted by the applicant, Commissioner Sodetani moved to approve the real estate corporation license of Akiko Nakashima Realty, Inc. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

Quinn, Leona M.

After a review of the information submitted by the applicant, Commissioner Sodetani moved to approve the home occupation place of business of Leona M. Quinn, subject to meeting the City and County of Honolulu's zoning requirements as

a conditional license. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

Gaudin, Catherine J. dba Catherine Aiu Realtor

After a review of the information submitted by the applicant, Commissioner Sodetani moved to approve the home occupation place of business of Catherine J. Gaudin dba Catherine Aiu Realtor, subject to meeting the City and County of Honolulu's zoning requirements, as a conditional license. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

Judge, James R.

After a review of the information submitted by the applicant, Commissioner Sodetani moved to approve the place of business of James R. Judge. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

Blackfield Hawaii Properties, Inc.

After a review of the information provided by the applicant, Commissioner Sodetani moved to approve the extension of the site office registration for the following site offices, Haleakala Gardens and Meadows at Makawao, subject to county planning department approval of limited land use. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

John Wilson Enterprises, Ltd.

After a review of the information submitted by the applicant, Commissioner Sodetani moved to approve the extension of the site office registration for Kaanapali Alii, subject to county department approval of limited land use. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

Lea Properties, Ltd.

After a review of the information submitted by the applicant, Commissioner Sodetani moved to approve the extension of site office

registration for Banyan Harbor, subject to county planning department approval of limited land use. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

Graham, Roy E.

After a review of the information submitted by the applicant, Commissioner Takeya moved to approve the real estate salesperson license of Roy E. Graham, upon receipt of documents and license fee. Commissioner Sodetani seconded the motion. The motion was voted on and unanimously carried.

Coultard, Irene J.

After a review of the information submitted by the applicant, Commissioner Yanagawa moved to approve the real estate salesperson license of Irene J. Coultard. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

Powell, Kathryn E.

After a review of the information submitted by the applicant, Commissioner Yanagawa moved that this matter be referred to the Regulated Industries Complaints Office. Commissioner Sodetani seconded the motion. The motion was voted on and unanimously carried.

Wilson, Denver

After a review of the information submitted by the applicant, Commissioner Kano moved to approve the real estate broker's license of Denver Wilson. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

Kaijima International, Inc.

After a review of the information submitted by the applicant, Commissioner Takeya moved to approve the real estate corporation license of Kaijima International, Inc. Commissioner Sodetani seconded the motion. The motion was voted on and unanimously carried.

Next Meeting: Friday, March 31, 1989
Kuhina Nui Room, Second Floor
H.R.H. Princess Victoria Kamamalu Building
1010 Richards Street
Honolulu, Hawaii

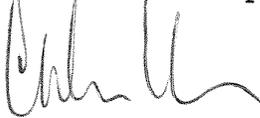
Adjournment: With no further business to discuss, Chairman
Damron adjourned the meeting at 12:30 p.m.

Taken and recorded by:

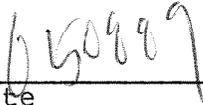


Irene S. Kotaka, Secretary

Reviewed and approved by:



Calvin Kimura
Executive Secretary



Date