

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 22, 1991

Time: 9:00 a.m.

Place: Kuhina Nui Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Present: Peter Yanagawa, Chairman
Barbara Dew, Oahu Member
Yoshiko Kano, Kauai Member
Stanley Kuriyama, Oahu Member
Carol Mon Lee, Public Member
Marcus Nishikawa, Oahu Member
Douglas Sodetani, Maui Member
Yukio Takeya, Hawaii Member

Calvin Kimura, Supervising Executive Secretary
Christine Rutkowski, Executive Secretary
Cynthia Yee, Real Estate Specialist
Diane Erickson, Deputy Attorney General
Bryan Yee, Special Deputy Attorney General
Irene Kotaka, Secretary

Rodney Maile, Senior Hearings Officer
Carla Poirier, RICO Attorney
George Nakano, RICO Attorney
Owen Tamamoto, RICO Attorney

Dr. Nicholas Ordway, Real Estate Research and
Education Center
John Ramsey, Consultant

Dana W. Smith, Attorney for Calvin Lau
Dennis Niles, Attorney for Frank Robar
Frank Robar
Leslie E. Kobayashi, Attorney for Simeon Ramos, Jr.
Simeon Ramos, Jr.
Bill Chee, Locations, Inc.
Larry Lim
Peter Rice, Classic Resorts

Barbara Richardson, ERA Stott
Tom Schmidt, Tom Schmidt Realtors

Excused: Theo Butuyan, Public Member

Call to Order: Chairman Yanagawa called the meeting to order at 9:09 a.m., at which time quorum was established.

Chairman's Report: Chairman Yanagawa reported that he presented testimony at the Director's confirmation hearing. He was also present at the Senate Housing Committee's hearing on the leasehold issue where over 250 people testified.

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

3. Executive Secretary's Report
b. Minutes of the September 28, 1990 Meeting
8. Licensing - Restoration of Forfeited Licenses
Reconsideration - Oliver Ishikawa
9. License - Questionable Applications
Margaret Jansson
Cheryl Bronn
Esther Glenn
Tom Schmidt

Disciplinary Cases: CALVIN C. F. LAU, RE 87-90

Mr. Smith was present on behalf of Mr. Lau. Owen Tamamoto, RICO Attorney, was present on behalf of the State.

Mr. Smith stated that he was informed by fax yesterday that Mr. Lau would be unable to attend today's meeting. Mr. Lau has just learned that he has lung cancer and has a doctor's appointment scheduled for this morning. He also has surgery scheduled for next week and requested that the matter be continued for three months until he is physically able to be present.

Mr. Tamamoto objected to Mr. Smith's request, stating that parts of the documents faxed were dated as early as February 7. He stated that Mr. Lau must have been aware earlier of the surgery and therapy that would be occurring. Mr. Tamamoto stated that he did not receive any written or verbal notice of the motion for a continuance. He stated that Mr. Lau was aware of the oral arguments scheduled for today and that he has already been granted one continuance. Mr. Tamamoto requested that the Commission deny Mr. Lau's request for a continuance and proceed with the matter.

Executive Upon a motion by Commissioner Sodetani, seconded by

Session: Commissioner Kano, it was voted on and unanimously carried to enter into executive session at 9:19 a.m., pursuant to Chapter 92-5(a)(4), "To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities;".

Upon a motion by Commissioner Takeya, seconded by Commissioner Dew, it was voted on and unanimously carried to move out of executive session at 9:30 a.m.

Upon a motion by Commissioner Takeya, seconded by Commissioner Sodetani, it was voted on and unanimously carried to deny Mr. Lau's request for a continuance and to proceed with the oral arguments.

Mr. Tamamoto stated that Utah-Waikiki Development Corporation (UWDC) was the developer of the time share interests at the Imperial Hawaii Resort and they were registered until 1986. On December 16, 1986, the time share registration was revoked. Utah-Waikiki Real Estate Corporation (UWREC) was the sales agent for UWDC. The time share was required to be registered under Chapter 514E, HRS, in order for the time share interests to be sold. On January 7, 1987, Mr. Lau became aware that the time share license was revoked. On January 8, 1987, he delivered messages to the salespersons to stop selling the time share interests because the license was revoked. Mr. John Goemans, attorney for UWDC, had advised the salespersons that they could continue selling, so they continued to sell. On February 13, 1987, Mr. Lau resigned. During the five week period, from January 8, 1987 to February 13, 1987, 50 sales contracts were executed. Mr. Lau said that he was not aware of the sales.

Mr. Tamamoto stated that the defense will argue that:

1. Mr. Lau did not know about the revocation.
2. Mr. Lau told them to stop when he became aware of the revocation.
3. Mr. Lau was not aware that Mr. Goemans had told them to continue selling.
4. Mr. Lau did not check the 50 contracts that came through his office.

Mr. Tamamoto then stated that if those facts are true, then:

1. No one spoke to Mr. Lau.
2. No one questioned him.
3. No one relied on him.
4. He had no procedure for checking the contracts.
5. He did not check to see that his orders were followed.
6. He was not minding the store. He was not available to his sales agents.

Mr. Tamamoto asked that the Commission, when considering the sanctions to be imposed against Mr. Lau, consider the above-mentioned defense. Mr. Lau has admitted to the violations. The Commission needs to consider the integrity of the profession and the public's safety.

Mr. Smith stated that the basic facts are agreed upon. UWREC was selling UWDC's

units and also other units in other buildings. Mr. Lau did not receive notice of the revocation. On January 7, 1987, Mr. Lau became aware of the revocation on the news. On January 8, 1987, he delivered messages to all of his salespersons to notify them that all sales should stop. On January 15, 1987, Mr. Lau heard about a meeting with John Goemans, in which Mr. Goemans states that it is okay to continue selling the units. On January 16, 1987, Mr. Lau contacted Mr. Al Lieber, President of UWDC and informed him that his attorney is giving out bad advice and that Mr. Lau intends to resign from the company. Mr. Lieber asked Mr. Lau to remain until he could find another person to replace him. Mr. Lau assumed that during the period of January 16 to February 13, 1987, sales had stopped.

Mr. Smith asked if all the time share agents are licensed and if the project's sales registration is cancelled, why was there never any notice sent out to the salespersons and brokers notifying them that they should not be selling?

Mr. Smith stated that Mr. Lau never intended to violate the law. He attempted to do right and did do the right thing.

Mr. Tamamoto stated that there were other sales in the building. That was not a part of the stipulated facts. UWREC is the vehicle for sales of UWDC's inventory. Mr. Tamamoto argued that if Mr. Lau realized the importance of calling his salespersons the day after he heard the news report, why didn't he stop the contracts? As principal broker, he is obligated to check to make sure that the time share interests continue to be registered. The notices that were sent to the individual sales agents or principal broker is not an issue before the Commission.

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

SIMEON C. RAMOS, JR., AKA BUTCH RAMOS DBA OHIA REALTY & DEVELOPMENT CO., RE 89-29 AND 89-52

Chairman Yanagawa and Commissioner Nishikawa were excused due to a conflict of interest. Vice-Chairman Takeya presided over the meeting.

Mr. Ramos was present, along with his attorney, Leslie Kobayashi. George Nakano, RICO Attorney, represented the State.

Ms. Kobayashi stated that Mr. Ramos received the Final Order 80 days after the final order was filed. The Final Order ordered that Mr. Ramos's license be suspended for one year, that he pay a \$2,500 fine and that he make restitution. Mr. Ramos did not receive the Recommended Order and received the Final Order 80 days after it was filed. The Final Order stated that if the fine and restitution was not paid within 90 days after the Final Order was filed, Mr. Ramos's license would be revoked. When Mr. Ramos received the Final Order on November 21, 1990, he was not able to come up with the \$42,500 needed within the ten days remaining. Ms. Kobayashi asked that the Commission set aside the revocation and that the Commission consider the case as if Mr. Ramos had just received the Recommended Order. Ms. Kobayashi asked that Mr.

Ramos be given the opportunity to pay the fine and to make restitution. However, she stated that they feel that the one year suspension of his license is too harsh.

Ms. Kobayashi stated that the Recommended Order and the Final Order were sent to an old address. Mr. Ramos had left the Maunakea address in 1988. He then moved to Fort Street. He left the Fort Street address in 1989, and then he moved to Harding Avenue. Prior to the hearing, in April 1990, RICO sent notice to Mr. Ramos at the Harding Avenue address. Mr. Ramos had stated at the hearing that his current address is Harding Avenue. Mr. Ramos was personally served at the Harding Avenue address on November 21, 1990. Mr. Ramos requested that he be granted 90 days to pay the fine and to make restitution and that he be allowed to file written exceptions.

Ms. Kobayashi stated that Mr. Ramos has not been conducting real estate business since he was served in November.

Mr. Nakano stated that the issue was if the respondent was properly served. Chapter 16-201-43 states that the Hearings Officer's Recommended Order is to be sent to the last known address. The address to which the Recommended Order was sent was the last known address on file with the Hearings Office. The address known to the Commission, through its records, is the Harding Avenue address.

Mr. Nakano stated that he would not have any objections to the Commission reconsidering the Final Order. However, the parties should be mindful that should the Commission grant the motion to reconsider, it does not mean that the Final Order would be amended or that there will be lesser sanctions. A greater amount of sanctions could be imposed upon the Respondent.

Mr. Nakano asked that should the Commission grant the motion to reconsider the Final Order today, that the reconsideration request be heard today so that the case can be resolved in a timely manner.

Ms. Kobayashi requested that the Commission grant her motion for reconsideration and that the Commission allow her one week for file written exceptions. She stated that Mr. Ramos should be given credit for the last three months that his license was suspended. Mr. Ramos is aware of the seriousness of the complaints against him. In his good faith, he is coming to the Commission, saying that he was denied the opportunity to respond to what was set forth and is willing to pay the fine.

Mr. Nakano objected to granting the motion for reconsideration, stating that if the motion is granted, there is no Final Order. He stated that there has already been a sufficient delay in the case. Mr. Ramos has admitted that he was personally served on November 21, 1990. The fine has not been paid as yet. Mr. Ramos has not turned in his wall certificate to the Commission. Mr. Nakano stated that should the Commission grant the motion for reconsideration, it would be in the best interest of the public for the matter to be heard today. The respondent is present and can testify and state the exceptions today.

Ms. Kobayashi stated that she would consider it to be more efficient and orderly to file

the written exceptions within seven days.

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Sodetani, it was voted on and unanimously carried to approve the following: 1. Allow the Respondent seven days to file his written exceptions; 2. Petitioner is allowed seven days thereafter to file exceptions; 3. The matter shall be scheduled for the March 21, 1991 Real Estate Commission Meeting; 4. The present sanctions remain in full force, with the exception of the revocation order; and 5. Respondent shall file an affidavit stating what happened to his wall certificate.

Commissioner Sodetani was excused from the meeting.

FRANK L. ROBAR, RE 89-118

Mr. Robar and his attorney, Dennis Niles were present. Carla Poirier, RICO Attorney, was present on behalf of the State.

Mr. Niles stated that the petition was filed in March 1990, alleging two basic violations. The first is that Mr. Robar, who is an accountant, violated Chapter 514A, HRS, by acting as a condominium managing agent of the Kihei Surfside Rental Program, without proper registration and bonding. The Hearings Officer dismissed this charge at the hearing. Secondly, Mr. Robar violated the rules of the Commission by not requiring or insuring that the Kihei Surfside Rental Association (KSRA) register with the Commission.

On January 1986, Mr. Robar was registered and licensed as a real estate broker. In July 1986, he entered into an agreement with KSRA to provide brokerage services. In response to the legislation enacted in 1985 with regard to §467-30, HRS, he presented to his attorney his understanding of what the project involved. His attorney drafted a management agreement. There was no suggestion that he was acting in bad faith. Section 467-30, HRS, relating to the bonding requirement, was later amended. The statute originally required that condominium hotel operators obtain a surety bond, but that was later amended to require a fidelity bond. Mr. Robar had submitted as part of the record a legislative report which accompanied the amendment to the legislation. The report stated that nine out of forty-nine projects were able to obtain bonding. Mr. Robar should not be punished for something in which it was impossible to accomplish. Without bonding, there would be no registration. Mr. Robar was charged with failing to register KSRA. Mr. Robar proved that bonding was not available. He presented testimony that he had contacted people on Maui and Oahu and he was still not able to obtain bonding.

In 1989, the Legislature amended the law. Exemptions from the brokerage requirement were created. Condominium hotel operators, such as KSRA, did not need a broker's license to do certain things. On August 1989, seven months prior to the filing of the petition, Mr. Robar terminated the agreement. When a home owner complained that mail had been lost, a complaint was filed with RICO. RICO determined that KSRA appeared to be a condominium hotel operator and they were not registered. In February 1988, the Maui RICO Office wrote to Mr. Robar and asked if he could respond. Mr.

Robar responded to Maui RICO. Mr. Robar did everything in his power to register KSRA. Mr. Robar never heard from RICO until the petition was filed. The matter goes to hearing. Mr. Robar proves that bonding was not available.

The State finds that Mr. Robar violated Hawaii law by not ensuring that KSRA was registered. Violation was based on §16-99-3(b), which requires that the licensee protect the public against fraud, misrepresentation and unethical conduct. The licensee shall endeavor to eliminate any practices in the community which could be dangerous. The public could have been injured because KSRA was not registered. Mr. Robar's obligation was to do his best in bringing KSRA into compliance. The Hearings Officer ruled that Mr. Robar is automatically responsible for KSRA's non-registration. The records supports the conclusion that Mr. Robar tried to do his best. The Hearings Officer misconstrued the rules. The rule simply says to do your best.

The brokerage agreement was entered into in August 1986. Mr. Robar was not charged with any violation. Mr. Robar went to an attorney and had an attorney draft the agreement. There was no evidence that supports the conclusion that Mr. Robar was renting his license.

Ms. Poirier stated that if you are a real estate broker, you have a license. If you take the exam and pass the test, you do not have a license. KSRA has been conducting business as a condominium hotel operator. Mr. Robar said that he let KSRA use his license. The petition states that Mr. Robar entered into a brokerage agreement with the association. KSRA did not get a bond. However, bonding was not available to every one. The Executive Secretary did not state that no one was unable to get bonding, just that some were having difficulties.

Chairman Yanagawa and Commissioner Nishikawa returned to the meeting.

Ms. Poirier went on to say that Mr. Niles addressed Mr. Robar's taking steps to get KSRA registered. Mr. Robar was supposed to be performing services and testified that he was not performing any of the services. There was plenty of evidence to show that the respondent violated the statutes. The issue is whether the Respondent acted appropriately under the statutes, whether the appearing to be acting as a broker for KSRA is an issue.

Mr. Niles stated that if the Commission's intent was to render a broker responsible under the circumstances, the rules would have been written that way. KSRA was a condominium hotel operator. KSRA had an opportunity to register. The licensee did endeavor to bring the association into compliance. Surely there was enough of a problem with the bonding issue to move the Legislature to change the law.

Upon a motion by Commissioner Lee, seconded by Commissioner Kano, it was voted on and unanimously carried to take this matter under advisement.

Chairman Yanagawa resumed presiding over the meeting. Commissioner Sodetani returned to the meeting.

ROY B. ABAD AND JOY REALTY OF HAWAII, INC., RE 88-94

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Sodetani, it was voted on and unanimously carried to approve the Hearings Officer's Recommended Order Granting Motion for Order Imposing Sanctions for Failure to Comply with the Commission's Order.

SPACES, LTD., RE 89-35

Commissioner Takeya was excused from the meeting due to a conflict of interest.

Upon a motion by Commissioner Sodetani, seconded by Commissioner Dew, it was voted on and unanimously carried to approve the Hearings Officer's Recommended Order Granting Motion to Dismiss Charges Against Respondent Spaces, Ltd.

Commissioner Takeya returned to the meeting.

DOUGLAS T. W. CHANG, EARLE F. SHIROMA, AND HERBERT K. HORITA
REALTY, INC., RE 90-78

Upon a motion by Commissioner Sodetani, seconded by Commissioner Kuriyama, it was voted on and unanimously carried to approve the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Commission's Final Order.

MARSHALL F. GOLDMAN, RE 85-135

Upon a motion by Commissioner Lee, seconded by Commissioner Kano, it was voted on and unanimously carried to defer decision making on this matter.

JULIE ITCHNER, RE 87-160

Upon a motion by Commissioner Sodetani, seconded by Commissioner Nishikawa, it was voted on and unanimously carried to deny Ms. Itchner's request for an additional six-month extension to complete the required real estate course and should she fail to complete the course and provide notification to the Commission that Ms. Itchner's license be suspended for three months and that the matter be referred back to RICO for further sanctions.

YOSHIYUKI SUENISHI, RE 87-442

Upon a motion by Commissioner Sodetani, seconded by Commissioner Takeya, it was voted on and unanimously carried to approve Mr. Suenishi's request to complete the Advanced Real Estate Finance course.

Licensing:

Kenneth Marcus

Mr. Chee was present to request that the Commission approve Kenneth Marcus's application for a real estate salesperson's license.

Mr. Chee stated that it was his fault that Mr. Marcus's application was not submitted in a timely manner. He stated that Mr. Marcus is a real estate attorney who recently transferred from New York and he specializes in real estate law.

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

Lawrence S. L. Lim

Mr. Lim was present to request that the Commission approve his application for a real estate salesperson's license.

Mr. Lim stated that he had a real estate license previously but he has been out of the real estate field for a number of years. He completed the prelicensing course and successfully passed the real estate examination but he failed to submit his completed application within 90 days because he did not receive his continuing education certificates in time. The day before his filing deadline, he realized that he should submit his application. He was not aware that he could turn in his application without submitting the continuing education certificates.

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

Peter Rice

Commissioner Sodetani was excused from the meeting due to a conflict of interest.

Mr. Rice was present to request that an equivalency to 16 months experience in order to obtain a real estate broker's experience certificate.

Mr. Rice stated that he has been actively pursuing a career as a property manager and he did not have any real estate experience. He had submitted statements from the condominium associations he manages. He is the Executive Vice-President of Classic Resorts and is currently associated with Iwado Realty.

Upon a motion by Commissioner Nishikawa, seconded by Commissioner Dew, it was voted on and unanimously carried to take this matter under advisement.

Commissioner Sodetani returned to the meeting.

Barbara Richardson

Ms. Richardson was present to request that the Commission reconsider its previous decision and that her license be restored immediately with the condition that she complete the GRI series of courses.

Ms. Richardson stated that she was not aware that she did not have an active real estate salesperson's license. She did not know that there were separate dues which would have

to be paid aside from those due to the Hawaii Association of Realtors. On December 31, 1990, she learned that her license was forfeited. She had applied for restoration and was informed that she would have to take a course. She signed up for the Real Estate Essentials course, but was informed the day before the course was to begin that it would be cancelled. When she contacted the Hawaii Association of Realtors, she was informed that the next GRI classes were to be held in April and June. The next Getting Started course would be offered in September. She would therefore like to request that the Commission restore her license immediately and allow her to complete the courses when they are available. She has taken the continuing education courses.

Commissioner Kano asked Ms. Richardson where she took her continuing education courses and if they looked at her license. Ms. Richardson stated that she took the courses from Windward Community College and she also stated that they accepted her Board of Realtors card.

Ms. Richardson was asked if she was active during the time that her license was forfeited. She stated that she was an active licensee with ERA Stott from January 1, 1989 until she became aware of her forfeited real estate license. She was also asked if he participated in any transactions during that time. She stated that she did participate in some transactions and she also attended the weekly staff meetings.

Upon a motion by Commissioner Sodetani, seconded by Commissioner Kano, it was voted on and unanimously carried to take this matter under advisement.

Tom Schmidt

Commissioner Takeya was excused from the meeting due to a conflict of interest.

Mr. Schmidt was present to request that his license be renewed as of January 1, 1991.

Mr. Schmidt requested that all licensees associated with him be reinstated retroactively, effective January 1, 1991.

Commissioner Sodetani reminded Mr. Schmidt that any inactive licensee shall not conduct any real estate activity.

Commissioner Takeya returned to the meeting.

Committee
Reports:

EDUCATION REVIEW COMMITTEE

Upon a motion by Commissioner Nishikawa, seconded by Commissioner Sodetani, it was voted on and unanimously carried to approve the recommendations of the February 13, 1991 Education Review Committee Meeting, as follows:

1. Approve the Education and Recovery Fund balances as of October 31, 1990 and December 31, 1990.
2. Request that the Hawaii Real Estate Research and Education Center and the

Real Estate Branch submit to the Commission a prioritized wish list of immediate (one year) and long-term (three to five years) programs, projects, etc.

3. Appoint, ratify, or reappoint respectively, as the case may be, the following individuals to the Advisory Council:

Elizabeth Benton (Oahu), 3 year term to expire in 1993

Kenneth Chong (Oahu), 1 year term, to expire in 1991

Laverne Bessert (Kauai), 1 year term, to expire in 1991

Charlene Sohriakoff (Hawaii), 2 year term, to expire in 1992

David McClain (Oahu), 2 year term, to expire in 1993

R. Brian Tsujimura (Oahu), 1 year term, to expire in 1991

Limit the term of services for no more than two years, maximum of six years. Increase the number of members on the Advisory Council from 12 members to 15 members. Invite immediately, Karen Nakamura to serve on the Council for a term of three years.

4. Request that a representative group of the Continuing Education Panel define and finalize a description of the categories in describing a difficulty level for each elective continuing education course and require that providers include in all advertising materials the specified difficulty level.
5. Deny the request of Mark James to be waived from taking the Instructor Development Workshop to renew his Continuing Education Instructor certification. Staff to inform Mr. James that he must complete an approved instructor development workshop in order to satisfy the requirement for renewing his certification.
6. Approve the continuing education course category instructor application of Kenneth D. H. Chong and certify him as an instructor in the course category of Investment/Taxation.
7. Approve the continuing education course category instructor application of Steven W. Gilbert and certify him as an instructor in the course category of Financing/Tax Strategy.
8. Approve the continuing education course elective instructor application of Eddie Flores and certify him as an instructor for the elective course, "How to List and Sell Business Opportunities," subject to the course being certified.
9. Approve Duplanty School of Real Estate's continuing education elective course application for "How to List and Sell Business Opportunities," subject to the provider appropriately renewing its certification; reviewing and considering comments of the Continuing Education Panel members, and designation of an appropriately certified continuing education instructor to teach the course.
10. Approve the University of Hawaii's Small Business Management Program's continuing education elective course application for "Basic Real Estate Investment Analysis and Taxation," subject to the provider appropriately renewing its certification, reviewing and considering comments of the Continuing Education Panel members, and designation of an appropriately certified continuing education

instructor to teach the course.

11. Approve the Hawaii Association of Realtors's continuing education elective course application of "GRI 201, 401, and 501," subject to the provider appropriately renewing its certification, reviewing and considering the comments of the Continuing Education Panel members, designation of an appropriately certified continuing education instructor to teach the course and payment of additional course certification fees of \$100.00 respectively for GRI 401 and 501.
12. Approve the Hawaii Association of Realtors's continuing education elective course application of GRI 101 and 301," subject to the provider appropriately renewing its certification; receiving, reviewing and considering comments of continuing education panel members, designation of an appropriately certified continuing education instructor to teach the course, payment of additional course certification fees of \$100 respectively for GRI 101 and 301.
13. Include the issue of "a continuing education course" for review as the Commission implements the second phase of continuing education.
14. Request that staff work with the Prelicense School Association in requesting that members of the association assist those Norma Jones students who have taken the Norma Jones final prelicense course exam, whose final exams remain unscored and who have not yet received a certificate of course completion; the minimum requested participation includes members electing to score the final exam.
15. Request that staff work with John Stapleton on the disclaimer language to be placed at the bottom of every page of the Hawaii Real Estate Reference Manual as a condition of using "as is" the manual in his prelicense classes; remuneration for use of the manual shall be as agreed upon between the Center and John Stapleton; and further subject to John Stapleton, prior to using the information in his prelicense classes, making immediate, timely and necessary changes and amendments to any information contained in the course in advance of receiving any written amendments from the Center.
16. Deny the request of Margie T. Abinosa for a waiver of the instructor certification examination for certification as a salesperson instructor based on Commission rule §16-99-58(d) mandating that new prelicense instructors take an exam as one of the conditions for certification.
17. Approve the request of Anna Bennett, of ERA Hawaii, as a math guest lecturer for the prelicensing salesperson courses, based on her meeting the requirements of §16-99-58(h) for approval of a guest lecturer, in that she is not being used for more than 50% of the prelicense course.
18. Request that Commissioner Takeya: (a) schedule a meeting with Charlie Barr of the testing company, ASI, in Hawaii for purposes of dialogue with the

prelicense schools and instructors, including test site administrators, about the transition to ASI and for purposes of resolving all exam administration issues and other issues including those relating to other contracted services; and (b) contact Mr. Barr to demand that he respond in writing to complaints and/or settle matters.

19. Request that staff solicit more information from the testing company, Psychological Services, Inc. (PSI).
20. Approve the following to attend the NARELLO Board of Directors meeting in Salt Lake City, Utah, from April 10 to 14, 1991: Commission member: Undecided and staff member, Calvin Kimura, Supervising Executive Secretary with Christine Rutkowski or alternate.
21. Approve the following to attend the NARELLO Western District Conference in Victoria, from May 12 to 15, 1991: Commission members, Douglas Sodetani, Yukio Takeya, Yoshiko Kano, and staff member, Calvin Kimura, Supervising Executive Secretary.
22. Approve the following to attend the REEA Annual Meeting in Orlando, Florida, from May 22 to 25, 1991: Commissioner member, Barbara Dew and staff member, Cynthia Yee, Real Estate Specialist
23. Note in the record receipt of Mr. Kaneshiro's letter, dated January 9, 1991, regarding the Annual Amendments and Revisions for Chapter 16-99, Hawaii Administrative Rules.
24. Based on the present and planned program of work, duties and responsibilities of existing Real Estate Education-funded positions, the Center's workload, the elective Continuing Education course approval process, the evaluation program on schools and instructors, it is recommended that for the short term, an emergency hire Real Estate Specialist and/or contracted position be retained; for the long term, establish and fund a Real Estate Specialist position. Commissioners Yanagawa, Sodetani, and Nishikawa to meet with the Director on February 21 or 22.
25. Based on the amount of reproduction, the demand for copies of public documents, the lost time and motion, it is recommended that a xerox machine be purchased. Commissioners Takeya, Sodetani, and Nishikawa to meet with the Director on this issue.

CONTINUING EDUCATION

Dr. Ordway distributed copies of the Real Estate Law Update and Ethics II course to the Commissioners for their information.

Upon a motion by Commissioner Nishikawa, seconded by Commissioner Sodetani, it was voted on and unanimously carried to approve the proposed core course, "Real Estate

Law Update and Ethics II", written by the Hawaii Real Estate Research and Education Center, subject to staff review and, if any, recommended changes. All instructors that have prior approval for Real Estate Law Update and Ethics I shall be certified to take the course.

INSTRUCTOR EXAMINATION

Upon a motion by Commissioner Nishikawa, seconded by Commissioner Sodetani, it was voted on and unanimously carried to reclarify that individuals applying for initial certification and recertification in three years as a prelicense instructor must take a REEA Instructor exam or any equivalent as selected by Commission staff.

INSTRUCTOR DEVELOPMENT WORKSHOP

Upon a motion by Commissioner Nishikawa, seconded by Commissioner Sodetani, it was voted on and unanimously carried to subsidize the Instructor's Development Workshop, from the Education Fund, an amount up to \$20 per person.

CONDOMINIUM AND COOPERATIVE REVIEW COMMITTEE

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Sodetani, it was voted on and unanimously carried to approve the recommendations of the February 21, 1991 Condominium and Cooperative Review Committee Meeting, as follows:

1. NEIGHBOR ISLAND CAI SEMINAR

CAI to select seminar site that is convenient and comfortable, to determine the time, that the total cost to the Commission be limited in accordance with staff recommendation of \$5,000 per seminar, and no minimum enrollment requirement.

2. CPR Sales to Foreign Citizens in the Foreign Country

Commission staff to respond that Chapter 514A, Hawaii Revised Statutes, does not appear to prohibit sales exclusively to foreign nationals outside of the State of Hawaii, provided that all applicable owner-occupant requirements of Part VI of Chapter 514A, HRS, are met.

3. Owner-Occupant Issue - Richard Rand

In the absence of a formal investigation of the facts presented by Mr. Rand, the Commission cannot issue a ruling that he has not violated the owner-occupant provisions of Chapter 514A; and that based on the facts presented and because of the existing contractual relationship between Mr. Rand and the developer, no Commission investigation or other action appears necessary at this time.

4. Definition of Conversion - Grant Tanimoto

Refer this issue to the condominium consultants on a project-by-project basis.

5. Record Retention Policy

Staff to prepare a complete set of recommendations for disposing of records, subject to departmental policy and advice from the Attorney General on restrictions or potential liability for disposing of records.

6. Holua at Mauna Loa

Refer this issue to the condominium consultant for the project for recommendations or any additional disclosures which may be necessary.

7. Additional Condominium Consultants

Defer action on this issue.

8. Waikiki Royal Condominium - Exemption from Association Fidelity Bond

Permit the association to be exempt from the fidelity bond requirement as long as only one owner owns all the apartments in the project and the owner signs a written acknowledgement that the bond is being waived.

MILILANI MAUKA, PERFORMANCE BOND - CASTLE & COOKE RESIDENTIAL, INC.

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Sodetani, it was voted on and unanimously carried that the Commission permit the posting of a performance bond for a partially completed project in an amount sufficient to complete the project, subject to the following conditions: (i) the project architect must certify what percentage of the project has been completed; (ii) the developer must provide clear evidence that the certificate percentage of the project has been completed and all work billed and paid for and provide lien releases from the subcontractors; (iii) the developer must not convey any unit to a purchaser prior to the expiration of the 45-day mechanic's lien period, unless the purchaser receives a title insurance policy with a mechanic's lien endorsement; and (iv) the developer may not use any funds of a prospective purchaser prior to conveyance of an apartment to the purchaser.

LAWS AND RULES REVIEW COMMITTEE

Upon a motion by Commissioner Takeya, seconded by Commissioner Sodetani, it was voted on and unanimously carried to approve the recommendations of the February 21, 1991 Laws and Rules Review Committee Meeting, as follows:

1. Prudent Investors Real Estate Franchise Request - Thomas P. Huber

Staff to respond to Mr. Huber, no changes in the approval process.

2. Broker License Experience Request - IREM

Commission to accept "CPM Designation" as equivalency to transaction requirement or for two year full-time salesperson experience, but not both. Commissioner Nishikawa to work with IREM on other proposals.

3. County of Hawaii Planning Department Letter

Commission staff to review and respond to the draft of the County of Hawaii's letter, relating to real estate offices.

4. Honolulu East Realty Letter

Commission staff to respond to the letter. Licensees may use residence phone numbers, cellular telephone numbers, or fax telephone numbers in advertising, as long as it is disclosed that it is a residence (res), cellular (cel), or "fax" number and the advertising complies with the laws and rules.

5. NARELLO

- a. Approve funding Dr. Ordway's attendance at the NARELLO Board of Director's Meeting, from the Real Estate Education Fund.
- b. Approve one investigator, per fiscal year, to attend the NARELLO Advanced Investigator Training program, to be funded by the Real Estate Education Fund, subject to selected investigator having completed 50 real estate investigations prior to training and assurances that selected investigator will continue to be assigned real estate investigations after completion of training.

6. Fiscal Year 1990-1991 Budget

Approve the following expenditures from the Real Estate Education Fund, subject to the Director's approval:

- a. Upgrading computer system in the Commission Office, approximately \$45,000 (Network, file server, hardware and software, \$15,000; PC-based optical storage and retrieval system, \$30,000)
- b. Xerox machine, office furniture and equipment, approximately \$19,400
- c. Advance the first half budget payment to the Hawaii Real Estate Research and Education Center, \$150,000

Licensing:

RATIFICATION

Upon a motion by Commissioner Kano, seconded by Commissioner Sodemani, it was

Robin Lee Rutledge Salesperson
Richard Takase Salesperson

After a review of the information submitted by the applicants, Commissioner Nishikawa 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.

Jon F. Anderton Salesperson

Commissioner Kano was excused due to a conflict of interest.

After a review of the information submitted by the applicant, Commissioner Nishikawa 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 Kano returned to the meeting.

Lisa Kim

Chairman Yanagawa, Commissioners Takeya and Nishikawa were excused due to a conflict of interest. Commissioner Sodetani, Chairman Pro Tem, presided over the meeting.

After a review of the information submitted by the applicant, Commissioner Dew moved to deny reconsideration of Ms. Kim's request for reconsideration. Commissioner Lee seconded the motion. The motion was voted on and unanimously carried.

Chairman Yanagawa, Commissioners Takeya and Nishikawa returned to the meeting. Chairman Yanagawa resumed presiding over the meeting.

Barbara Richardson

After a review of the information presented by the applicant, Commissioner Kuriyama moved to deny Ms. Richardson's request for reconsideration. Commissioner Nishikawa seconded the motion. The motion was voted on and unanimously carried.

Oliver Ishikawa

Commissioner Nishikawa was excused from the meeting due to a conflict of interest.

After a review of the information submitted by the applicant, Commissioner Kuriyama moved to deny Mr. Ishikawa's request for reconsideration. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Commissioner Nishikawa returned to the meeting.

QUESTIONABLE APPLICATIONS

GAMREX, Inc.

After a review of the information submitted by the applicant, Commissioner Nishikawa moved to approve the real estate corporation application of GAMREX, Inc. Commissioner Kuriyama seconded the motion. The motion was voted on and unanimously carried.

LST Enterprises, Ltd.

After a review of the information submitted by the applicant, Commissioner Lee moved to deny the real estate corporation application of LST Enterprises, Ltd. Commissioner Dew seconded the motion. The motion was voted on and unanimously carried.

Pahoa Realty, Ltd.

Commissioner Takeya was excused due to a conflict of interest.

After a review of the information submitted by the applicant, Commissioner Nishikawa moved to approve the real estate corporation application of Pahoa Realty, Ltd. Commissioner Kuriyama seconded the motion. The motion was voted on and unanimously carried.

Commissioner Takeya returned to the meeting.

Jacson & Luitpold Co., Ltd. dba Kawabe Homes

After a review of the information submitted by the applicant, Commissioner Lee moved to approve the real estate corporation application of Jacson & Luitpold Co., Ltd. and to deny the trade name of Kawabe Homes. Commissioner Dew seconded the motion. The motion was voted on and unanimously carried.

Golden Triangle Real Estate

After a review of the information submitted by the applicant, Commissioner Lee moved to deny the real estate partnership application of Golden Triangle Real Estate. Commissioner Dew seconded the motion. The motion was voted on and unanimously carried.

Maeriki U.S.A., Inc.

After a review of the information submitted by the applicant, Commissioner Nishikawa moved to approve the real estate corporation application of Maeriki U.S.A., Inc. Commissioner Kuriyama seconded the motion. The motion was voted on and unanimously carried.

Marie A. Hansen

After a review of the information submitted by the applicant, Commissioner Lee moved to deny Ms. Hansen's request to eliminate her middle name and initial from the Licensing records. Commissioner Dew seconded the motion. The motion was voted on and unanimously carried.

Doris E. Epp dba Stonemark Investments

After a review of the information submitted by the applicant, Commissioner Lee moved to deny Ms. Epp's request to add the trade name, Pacific-Hawaii Bed & Breakfast. Commissioner Dew seconded the motion. The motion was voted on and unanimously carried.

Edwina A. L. Wong

After a review of the information submitted by the applicant, Commissioner Nishikawa moved to approve Ms. Wong's request for a home occupation office, located at 92-1022 Kanehoa Loop, Makakilo, Hawaii, subject to the conditions imposed upon her by the City and County of Honolulu. Commissioner Kuriyama seconded the motion. The motion was voted on and unanimously carried.

Anne H. Perry

After a review of the information submitted by the applicant, Commissioner Nishikawa moved to approve Ms. Perry's request for an equivalency to the three listings that have closed escrow requirement. Commissioner Kuriyama seconded the motion. The motion was voted on and unanimously carried.

Peter Rice

Commissioner Sodetani was excused from the meeting due to a conflict of interest.

After a review of the information presented by the applicant, Commissioner Lee moved to deny Mr. Rice's request for an equivalency to sixteen months experience. Commissioner Dew seconded the motion. The motion was voted on and unanimously carried.

Commissioner Sodetani returned to the meeting.

Linda Rowan

No action was taken on this application.

Lawrence S. L. Lim

After a review of the information presented by the applicant, Commissioner Lee moved to deny Mr. Lim's application for a real estate salesperson's license as he failed to submit his completed application within 90 days of the examination date. Commissioner Dew seconded the motion. The motion was voted on and unanimously carried.

Kenneth Marcus

After a review of the information submitted, Commissioner Lee moved to deny Mr. Marcus's application for a real estate salesperson's license as he failed to submit his completed application within 90 days of the examination date. Commissioner Dew seconded the motion. The motion was voted on and unanimously carried.

Zane G. Williams

After a review of the information submitted by the applicant, Commissioner Dew moved to approve the reinstatement of Mr. Williams's suspended license, subject to submitting evidence of successfully completing a real estate Commission-approved course. Commissioner Kuriyama seconded the motion. The motion was voted on and unanimously carried.

Century 21 Advantage and David Richardson

After a review of the information submitted, Commissioner Lee moved to deny Century 21 Advantage and David Richardson's request to backdate the licensing records. Commissioner Dew seconded the motion. The motion was voted on and unanimously carried.

Cynthia Cary

After a review of the information presented by the applicant, Commissioner Nishikawa moved to approve a 30-day extension for Ms. Cary to file an appeal. Commissioner Kuriyama seconded the motion. The motion was voted on and unanimously carried.

Delegation on Extension to File Appeals

Upon a motion by Commissioner Nishikawa, seconded by Commissioner Sodetani, it was voted on and unanimously carried to delegate the authority to grant a one-time, 30-calendar day extension to file an appeal to the Executive Secretary.

Margaret Jansson

After a review of the information submitted by the applicant, Commissioner Nishikawa moved to preliminarily approve the trade name, Chamar Enterprises or Chamar Properties. Commissioner Kuriyama seconded the motion. The motion was voted on and unanimously carried.

Cheryl Bronn

After a review of the information submitted by the applicant, Commissioner Lee moved to deny Ms. Bronn's request for an equivalency to the three listings that have closed escrow requirement and the three sales that have closed escrow requirement. Commissioner Dew seconded the motion. The motion was voted on and unanimously

carried.

Esther Glenn

After a review of the information submitted by the applicant, Commissioner Dew moved to approve Ms. Glenn's request for reinstatement of her suspended license, subject to her submitting evidence of successfully completing a Commission-approved real estate course. Commissioner Kuriyama seconded the motion. The motion was voted on and unanimously carried.

Tom Schmidt

Commissioner Takeya was excused from the meeting due to a conflict of interest.

After a review of the information presented by Mr. Schmidt, Commissioner Lee moved to deny Mr. Schmidt's request for an immediate renewal of all licenses associated with him as of January 1, 1991. Commissioner Dew seconded the motion. The motion was voted on and unanimously carried.

Commissioner Takeya returned to the meeting.

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Sodetani, it was voted on and unanimously carried to appoint a Committee to work with staff on recommendations for the licensing applications to be considered. Commissioner Nishikawa was appointed to work with staff.

Disciplinary
Cases:

CALVIN C. F. LAU, RE 87-90

Upon a motion by Commissioner Takeya, seconded by Commissioner Sodetani, it was voted on and unanimously carried that Mr. Lau's license be suspended for one year, that he be subject to a fine of \$1,000, and that he does not conduct time share activity for the remainder of his life.

FRANK L. ROBAR, RE 89-118

Chairman Yanagawa, Commissioners Nishikawa and Sodetani were excused from the meeting. Vice Chairman Takeya presided over the meeting.

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Lee, it was voted on and unanimously carried to defer decision making on this matter to the next Commission meeting.

Chairman Yanagawa, Commissioners Nishikawa and Sodetani returned to the meeting. Chairman Yanagawa resumed presiding over the meeting.

Recovery Fund The Executive Secretary reported that Gary Au Young
Report: is no longer associated with the Recovery Fund Counsel. Sidney Ayabe, Esq., of Libkuman,

Ventura, Ayabe, Chong & Nishimoto, will be handling the recovery fund cases.

Next Meeting:

March 21, 1991, 9:00 a.m.
Kuhina Nui Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Adjournment: With no further business to discuss, Chairman Yanagawa adjourned the meeting at 2:55 p.m.

Taken and recorded by:

Irene S. Kotaka Secretary

Reviewed and approved by:

Calvin Kimura
Supervising Executive Secretary

Date