

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: Thursday, April 16, 1992

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, Oahu Member
Marcus Nishikawa, Vice Chairman, Oahu Member
Theo Butuyan, Public Member
Barbara Dew, Oahu Member
Jerry Hirata, Hawaii Member
Yoshiko Kano, Kauai Member
Stanley Kuriyama, Oahu Member
Carol Mon Lee, Public Member
Douglas Sodetani, Maui Member

Calvin Kimura, Supervising Executive Secretary
Russell Wong, Real Estate Specialist
Lynn Miller, Real Estate Specialist
R. Victoria Shiroma, Condominium Specialist
Sheryl Nagata, Hearings Officer
Diane Erickson, Deputy Attorney General
Irene Kotaka, Secretary

Cynthia Yee, Hawaii Real Estate Research & Education
Center
Denny Benson, Hawaii Association of Realtors
Harry Saunders, Castle & Cooke Residential
Russell J. Vatalaro
Toni Floerke, Applicant
India Andrews Noe, Licensee
John Gillmor, Attorney for LFC
Mathew N. Dutson, Licensee
William W. Lange, President, LFC
Judith Barker, Vice President, LFC
Jim Delmonte, Applicant

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

Chairman's The chairman reported that he had received notification of a change

Report: of address for the Appraisal Subcommittee.

Executive Secretary's The Executive Secretary was unable to be present at today's meeting.

The Senate Committee on Executive Appointments held their confirmation hearings and Commissioner Butuyan has been reappointed to the Commission for four years. The two new incoming members of the Commission are Alvin Imamura and Francine Duncan.

Additional handouts of the following were also distributed to the Commissioners:

4. Chapter 91, Hawaii Revised Statutes, Adjudicatory Matters - Disciplinary Cases
 - b. Marilyn S. Knutson dba Knutson & Associates - REC 91-2, Respondent's Reply Memorandum to Statement in Partial Support of the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order; Certificate of Service
6. Committee Reports
 - a. Education Review Committee
9. Licensing - Questionable Applications
Century 21 Associated Realty, Inc.
LFC Real Estate Marketing Services, Inc.
James Delmonte

Adjudicatory Matters: The Chairman called for a recess from the Commission meeting at 9:20 a.m. to discuss and deliberate on the following adjudicatory matters pursuant to Chapter 91, HAWAII Revised Statutes:

- a. Steven D. Moody, REC 90-363

Ms. Nagata summarized the Hearings Officer's Findings of Fact, Conclusions of Law, and Recommended Order to the Commission.

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

Marilyn S. Knutson dba Knutson & Associates, REC 91-2

Ms. Nagata requested that the Commission defer decision making on this matter until the next meeting when the Hearings Officer could be present to discuss this matter.

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

Recovery Fund Report:

No recovery fund report was presented.

Committee
Reports:

Education Review Committee

Upon a motion by Commissioner Dew, seconded by Commissioner Hirata, it was voted on and unanimously carried to approve the recommendations of the April 15, 1992 Education Review Committee Meeting, as follows:

1. **Budget and Finance Committee Report.** Accept the financial reports of the Real Estate Education Fund, the Condominium Management Education Fund, and the Real Estate Recovery Fund, for the period ending February 29, 1992.
2. **Participation with Hawaii and National Organizations.** Approve participation in the Real Estate Center Directors and Chairholders Association's Annual Conference on Kauai, on August 19 to 21, 1992, to be a part of FY 1993 budget, subject to the terms of the invitation letter, dated April 10, 1992.
3. **Meetings and Annual Symposium.** Approve holding the neighbor island committee meetings for FY 1993 in Maui in September.
4. **Continuing Education Instructor, Course, and Provider Applications.** Approve the following applications:

Provider:

Center for Professional and Executive Development

Instructor:

David Dodgin, approve for "Alternative Financing for Today's Market" course, subject to taking approved IDW within four months

William G. Meyer III, approve for "Real Estate Law" course category, subject to taking an approved IDW within four months

Richard K. C. Ching, approve for "Real Estate Appraisal" course category

Course:

Alternative Financing for Today's Market (Dower School), approve

Upon a motion by Commissioner Dew, seconded by Commissioner Hirata, it was voted on and unanimously carried that the following recommendations of the April 15, 1992 Education Review Committee be amended, as follows:

1. **Fiscal Year 1992 Program of Work and 1993 Program of Work.** Each Commissioner to review the fiscal year 1992 programs assigned to him/her and submit a report to the staff on each of the program's status (completed, carry over, or sunseted by April 30). This is necessary to complete the proposed program of work and budget for the fiscal year 1993 at least eight days prior to the next affected Committee Meetings (CCRC and LRRC - May 13, 1992 and ERC - May 21, 1992).

2. **Continuing Education Instructor, Course, and Provider Applications.**

Instructor:

Joel Criz, approve as a back up instructor for "Introduction to Real Estate Exchanges" for the May 3 and 5 classes only, subject to submission of a complete application for certification for any future offerings of the subject course.

3. **Maui County Manual.** Commission staff to review the proposed Maui County manual, discussing the questionable areas with the Attorney General's Office and develop a policy for the handling of the manuals.

Condominium and Cooperative Review Committee

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Lee, it was voted on and unanimously carried to approve the recommendations of the April 1, 1992 Condominium and Cooperative Review Committee Meeting, as follows:

1. **Condominium and Cooperative Review Committee Program of Work and Budget, FY 1992-93.** Defer for continued discussion and recommendations at the next Education Review Committee Meeting.
2. **1992 Legislature.** Staff to provide status report at the next Education Review Committee meeting.
3. **Out of State Condominium Projects.** Approve including this on the program of work and budget for fiscal year 1992-1993, with this project being contracted with an outside consultant.
4. **Condominium Seminars.** Although the Commission is interested in CAI seminars/workshops, participation in seminars/workshops should be considered under specific guidelines and under the program of work/five year plan. The Hawaii Real Estate Research and Education Center to examine and develop criteria/guidelines for deciding the value of participating in seminars/workshops, how it should integrate with the program of work/five year education and research plan, different types and forms of participation to be generically applied to all organizations.

Kumehawai Gardens, Phase I, Sales to Owner-Occupants

Mr. Harry Saunders, of Castle & Cooke Residential, was present to report to the Commissioners that they are redrafting the documents and pre-sale notice to comply with the statutes as drafted. House Bill No. 664 has passed the floor vote and is on its way to the Governor for final approval. Castle and Cooke intends to publish the pre-sale notice on the day or a few days after the Governor signs House Bill No. 664 into law.

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

Laws and Rules Review Committee

Upon a motion by Commissioner Sodetani, seconded by Commissioner Kano, it was voted on and unanimously carried to approve the recommendations of the April 1, 1992 Laws and Rules Review Committee Meeting, as follows:

1. **Program of Work and Budget, FY 1992-93.** Defer for continued discussion and recommendations at the next Education Review Committee Meeting.
2. **Real Estate Licensee and Home Inspector, Amerispec.** Refer to Commission staff for response.
3. **Table at Swap Meet, John Holly.** Refer to Commission staff for response.
4. **Delegation to Real Estate Commission Staff on License Applications.** Executive Secretary Rutkowski will work with the Deputy Attorney General on specific guidelines.
5. **NARELLO's President Recommendations on Education and Research Fund.** Recommend agreement on task force with the Supervising Executive Secretary or a Commissioner to serve on the task force.

Licensing:

RATIFICATIONS

Upon a motion by Commissioner Sodetani, seconded by Commissioner Kano, it was voted on and unanimously carried to ratify the following applications:

Brokers

Advantage Real Estate Management Corp.
Crown Capital Corporation
East Oahu Realty, Inc.
Charles W. Loomis

Trade Names

Micah O. M. Miller dba Micah Realty
Locations Property Management Inc. (fka Locations Management Inc.)

Site Office

Residential Resources of Hawaii, Inc. - Pohakea Point
Z & M Ltd. - The Pointe at Poipu
Southshore Properties - The Pointe at Poipu
Real Estate Systems, Inc. - One Kalakaua
Hawaii Real Estate Professionals - Valley View Terrace
Bradley Properties, Ltd. - Kaanapali Golf Estates
Amfac Realty, Inc. - Kaanapali Golf Estates

Condominium Managing Agents

Cen Pac Properties, Inc.
Hawaiian Dreams Realty, Inc.
Vickie L. Rapoport dba Hawaii Resort Management
Monroe & Friedlander Management Inc.
Johnita Nowell dba J. Nowell Realty
Seawest Incorporated dba Seawest Resorts
PATDI, Inc.
Nikken Corporation

Condominium Hotel Operator

R & R Realty & Rentals, Inc.

Condominium Project Registration - Public Reports Issued for the Month of March 1992

Akuleana Hale, Honolulu - Supplementary
The Arbors, Increment D, Honolulu - Final
The Arbors, Increment F, Honolulu - Final
Parkview at Waikele, Honolulu - Preliminary
Kuikahi Puu, Hawaii - Final
Valley View Terrace, Honolulu - Final
630 10th Avenue, Honolulu - Final
Coast View Villas, Hawaii - Final
The Arbors, Increment E, Honolulu - Final
The Arbors, Increment G, Honolulu - Final
Keopuka Heights, Hawaii - Final
Kahili Makai Ranch, Kauai - Final
The Ho'omakahou, Honolulu - Final
129 Rose Street, Honolulu - Final
Ho'okumu at Waikele, Honolulu - Preliminary
Pearl Horizons, Phase IIB, Honolulu - Preliminary
Fairway Terrace, Hawaii - Supplementary
68-474 Crozier Drive, Honolulu - Final
Pohaku Plantation, Hawaii - Final
99-516/99-516A Aliipoe Drive, Honolulu - Final

Adjudicatory Matters: The Commission entered into Chapter 91, HRS, to discuss adjudicatory matters.

Steven D. Moody, REC 90-363

Upon a motion by Commissioner Sodetani, seconded by Commissioner Kano, it was voted on and unanimously carried to accept the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order, with the Hearings Officer to notify the respondent that the designated continuing education course is "How to Manage Residential Property."

Upon a motion by Commissioner Sodetani, seconded by Commissioner Kano, it was voted on and unanimously carried to recommend that for future cases, the Office of Administrative Hearings and the Legal Section of the Regulated Industries Complaints Office specify "real estate course(s)", not continuing education courses in any sanctions imposed against licensees. This general language and plural form will provide flexibility in deciding on the course or courses, allows the Commission to prescribe courses relating to the case situation, allows the Commission to prescribe more than one course since classroom hours for certified courses range from one hour to 46 hours, and allows for consideration of courses that are scheduled in the county where the respondent resides.

Chairman Yanagawa returned to the regular Commission meeting agenda.

Licensing: **Questionable Applications**

LFC Real Estate Marketing Services, Inc.

Chairman Yanagawa was excused from the meeting due to a conflict of interest. Vice-Chairman Nishikawa presided over the meeting.

LFC Real Estate Marketing Services, Inc. was represented by Willian W.Lange, President; Judith Barker, Vice-President; Mathew N. Dutson, Proposed Principal Broker; and John P. Gillmor, Attorney for LFC Real Estate Marketing Services, Inc.

Mr. Gillmor stated that LFC was granted a provisional license on March 13, 1992. However, there was a question on its reputation for honesty, truthfulness and fair dealing. Complaints had been filed but LFC has never received written notification from RICO that a complaint had been filed. He feels that the only issue which should be before the Commission is their reputation for honesty, truthfulness and fair dealing. He requested that the Commission not consider the pending matters before RICO in accordance with due process which allows the respondents the opportunity to respond to the complaints filed against them. Mr. Gillmor requested that the Commission uphold the license that was granted to LFC and if there are any questions as to the complaints which were filed, they go through with the hearings process.

Commissioner Sodetani questioned Mr. Gillmor as to the nature of the complaints filed against his clients.

Mr. Gillmor responded that there are two levels of complaints. He had been told that there were violations of a technical nature. Their advertising did not disclose whether the property was being offered by leasehold or fee simple and also advertising had been published prior to the named being properly approved and also, their toll free number gives out information that only a licensee should give out. On another level, he thinks that the issue is a matter of economics and politics. Auctions are not common in Hawaii. There is a sense among the licensed brokers that this is taking the bread out of their mouths. Commissions from the auction are being paid to outside brokers. Mr. Gillmor stated that he was uncertain as to what was being discussed at this meeting - the technical violations or objections to the auctions being held.

The Supervising Executive Secretary stated that the staff was looking at it from the standpoint of Chapters 467 and 514A, Hawaii Revised Statutes. Some issues which were brought to staff's

attention was LFC's offering to sell condo apartment units when a supplemental public report was not issued, making offers for sale on behalf of the owners of the property without being properly licensed, and having a site office which was not registered with the Commission.

Commission staff also received a letter from Mr. Lange stating that the initials, "LFC" does not represent anyone's name. The Supervising Executive Secretary asked Mr. Lange if there was an entity called Lange Financial Corporation. Mr. Lange stated that there is a Lange Financial Corporation. There are four different corporations, such as LFC Governmental Clearinghouse and LFC Real Estate Marketing Services. Lange Financial Corporation owns buildings in California. Mr. Lange does not have a Hawaii real estate broker's license, but he does have a California broker's license.

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

Chairman Yanagawa returned to the meeting and resumed presiding over the meeting.

Toni Floerke

Ms. Floerke was present to request an equivalency to the three closed sales transaction requirement. Ms. Floerke stated that she has finished the real estate broker's prelicensing course. She also stated that she has been associated with Ms. India Andrews Noe of Mokuleia Management, Inc. since February 1989. She has taken over the condominium management and vacation rental aspect of the business. If the equivalency is granted and she receives her brokers license, she would like to go into business with Ms. Noe. She completed a Getting Started course in 1990. She manages 181 rentals and 221 condominium units.

Ms. Noe stated that she is suffering from chronic fatigue syndrome and because of Toni's support, she has been able to keep the business going. She requested that the Commission grant Ms. Floerke's request for an equivalency so that Ms. Floerke may continue working with her.

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

James Delmonte

Mr. Delmonte was present to request that the Commission reconsider his application.

Mr. Delmonte stated that he is a real estate broker in the State of California and has been one for more than 30 years. He has been a resident of Hawaii for the past 10 to 12 years. He deals full-time in real estate, buying foreclosures and managing property in Hawaii and in California. He owns, controls, and manages property in Santa Barbara. He applied to take his real estate broker's test and submitted his college transcripts and went through the prelicensing course. He has been involved in real estate all of his life. He stated that he passed the exam the second time that he took it. He did not have an experience certificate. He had submitted a certificate stating that he is knowledgeable in real estate. He felt that his experience in mortgage brokerage and real estate rentals makes him a knowledgeable person. He considers himself to be a broker's broker and he has a good grasp of real estate. He obtained his real estate salesperson's license approximately three to four years ago. He spends 60 to 80 hours in real estate. He is present to

request that the Commission consider his application for licensure. He has also filed a request for a formal appeal. He asks that the Commission accept the results of the test. He wants to submit his experience certificate application and the Commission grant him his license.

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

Executive Session: Upon a motion by Commissioner Nishikawa, seconded by Commissioner Sodetani, it was voted on and unanimously carried to move into executive section at 11:20 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;"

Upon a motion by Commissioner Lee, seconded by Commissioner Butuyan, it was voted on and unanimously carried to move out of executive session at 12 Noon.

Chairman's Report: Commission's Travel Policy

Upon a motion by Commissioner Sodetani, seconded by Commissioner Dew, it was voted on and unanimously carried to reaffirm the Commission's travel policy, dated March 16, 1988.

Committee Reports: **Condominium and Cooperative Review Committee**

Kumelawai Gardens, Phase I

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Lee, it was voted on and unanimously carried to approve the report, subject to amendment on Kumelawai Gardens, Phase I, Sales to Owner-Occupants Recommendation. Staff to inform the developer that there does not appear to be any provision to prevent the developer from preparing for the enactment of House Bill No. 664, provided that no advertisement or announcement is published or any offer of sale to a prospective owner-occupant is made prior to enactment of House Bill No. 664 and with the full understanding of the liabilities involved.

Licensing: **Restoration of Forfeited License**

Catherine P. Chandler	Salesperson
Nancy K. Erselius	Salesperson
Miyeko Y. Fujiki	Salesperson
Michael L. Michaud	Salesperson
Shawn Peter Nakano	Salesperson
Gerald F. Randall	Salesperson

After a review of the information submitted by the applicants, Commissioner Sodetani moved that restoration be approved, subject to submitting evidence of successfully completing a Commission-approved real estate course. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Bruce W. Alexander

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

Questionable Applications

Century 21 Associated Realty Corp.

After a review of the information received by the applicant, Commissioner Butuyan moved to approve the real estate corporation application of Century 21 Associated Realty Corporation. Commissioner Dew seconded the motion. The motion was voted on and unanimously carried.

Hiro Pacific Properties, Inc.

After a review of the information submitted by the applicant, Commissioner Sodetani moved to deny the real estate corporation application of Hiro Pacific Properties, Inc. Commissioner Nishikawa seconded the motion. The motion was voted on and unanimously carried.

Worrall-McCarter Maui, Inc.

After a review of the information submitted by the applicant, Commissioner Dew moved to approve the branch office application of Worrall-McCarter Maui, Inc. Commissioner Lee seconded the motion. The motion was voted on and unanimously carried.

Ironwood Resorts, Inc.

After a review of the information submitted by the applicant, Commissioner Lee moved to defer decision making on the request to change the corporate name to LouRose Properties, Inc., pending receipt of further information from the applicant. Commissioner Butuyan seconded the motion. The motion was voted on and unanimously carried.

MacArthur, Inc.

After a review of the information provided by the applicant, Commissioner Sodetani moved to approve the corporate name change to MacArthur Worrall & McCarter, Inc. Commissioner Dew seconded the motion. The motion was voted on and unanimously carried.

Russell J. Vatalaro

After a review of the information submitted by the applicant, Commissioner Kuriyama moved to approve Mr. Vatalaro's application for a real estate salesperson's license. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

David P. St. John

After a review of the information submitted by the applicant, Commissioner Kano moved to approve Mr. St. John's real estate salesperson's application. Commissioner Nishikawa seconded the motion. The motion was voted on and unanimously carried.

Pali Kai, Inc.

After a review of the information submitted by the applicant, Commissioner Hirata moved to approve the Condominium Managing Agent registration of Pali Kai, Inc. Commissioner Lee seconded the motion. The motion was voted on and unanimously carried.

J.L.B., Inc. dba MDR Maui Diversified Real Estate

After a review of the information submitted by the applicant, Commissioner Lee moved to approve the Condominium Managing Agent Registration of J.L.B., Inc. dba MDR Maui Diversified Real Estate. Commissioner Hirata seconded the motion. The motion was voted on and unanimously carried.

Wade T. Shaffer

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

Elizabeth J. Adams

After a review of the information submitted by the applicant, Commissioner Kano moved to approve Ms. Adams's request for an equivalency to one listing contract which has closed escrow. Commissioner Hirata seconded the motion. The motion was voted on and unanimously carried.

David Cudlipp

After a review of the information submitted by the applicant, Commissioner Hirata moved to approve Mr. Cudlipp's request for an equivalency to two listing contracts which have closed escrow and that the Commission accept his successful completion of the Realpro course. Commissioner Lee seconded the motion. The motion was voted on and unanimously carried.

Toni A. Floerke

After a review of the information presented by the applicant, Commissioner Lee moved to approve Ms. Floerke's request for an equivalency to the three sales transactions which have closed escrow requirement. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Jeffrey D. Zimmerman

After a review of the information submitted by the applicant, Commissioner Nishikawa moved to deny Mr. Zimmerman's request for an equivalency to six transactions (three listings which have closed escrow and three sales contracts that have closed escrow) and three months experience. Commissioner Sodetani seconded the motion. The motion was voted on and unanimously carried.

Sandra Bergman

After a review of the information submitted by the applicant, Commissioner Kuriyama moved to reinstate Ms. Bergman's suspended license, subject to clarification on forfeiture/license status, to inactive status if 1989/90 continuing education courses are not completed, and to clarification on the status of the corporation. Commissioner Butuyan seconded the motion. The motion was voted on and unanimously carried.

LFC Real Estate Marketing Services, Inc.

Chairman Yanagawa was excused from the meeting due to a conflict of interest. Vice-Chairman Nishikawa presided over the meeting.

After a review of the information presented by the applicant, Commissioner Sodetani moved to approve the real estate broker application of LFC Real Estate Marketing Services, Inc. Commissioner Dew seconded the motion. The motion was voted on and unanimously carried.

Chairman Yanagawa returned to the meeting.

James Delmonte

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

Next Meeting: Friday, May 22, 1992, 9 a.m.
Kuhina Nui Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Adjournment: With no further business to discuss, Vice-Chairman Nishikawa adjourned the meeting at 12:20 p.m.

Reviewed and approved by:

Calvin Kimura
Supervising Executive Secretary

Date