

REAL ESTATE COMMISSION
Professional & Vocational Licensing Division
Department of Commerce & 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: Wednesday, November 24, 1993

Time: 9:00 a.m.

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

Present: Marcus Nishikawa, Chair, Oahu Member
Barbara Dew, Vice-Chair, Oahu Member
Jerry Hirata, Hawaii Island Member (Late arrival)
Alvin Imamura, Maui Member
Yoshiko Kano, Kauai Member
Stanley Kuriyama, Oahu Member
Carol Mon Lee, Public Member

Calvin Kimura, Supervising Executive Secretary
Jan Yamane, Senior Real Estate Specialist
Russell Wong, Real Estate Specialist
Lee Ann Teshima, Real Estate Specialist
R. Victoria Shiroma, Condominium Specialist
Benedyne Stone, Condominium Specialist
Diane Erickson, Deputy Attorney General
Irene Kotaka, Secretary

Shari Wong, Special Deputy Attorney General
Cynthia Yee, Hawaii Real Estate Research & Education Center
Christine O'Brien, Hawaii Association of Realtors
Kevin Carney, Applicant

Excused: Theo Butuyan, Public Member
Francine Duncan, Public Member

Call to Order: The Chair called the meeting to order at 9:06 a.m., at which time quorum was established.

Chair's Report: The Chair introduced Christine O'Brien, the incoming President-Elect of the Hawaii Association of Realtors.

Adjudicatory Matters: The Chair called for a recess from the Commission meeting at 9:07 a.m., to discuss and deliberate on the following adjudicatory matters pursuant to Chapter 91, Hawaii Revised Statutes:

Phyllis P. Perry; REC 92-274-L

Commissioner Hirata arrived.

Upon a motion by Commissioner Lee, seconded by Commissioner Kano, it was voted on and unanimously carried to approve the Settlement Agreement After Petition for Disciplinary Action and Proposed Commission's Final Order.

Following the Commission's review, deliberation and decisions in these matters, pursuant to Chapter 91, HRS, the Chair announced that the Commission was reconvening its scheduled Commission meeting at 9:14 a.m., pursuant to Chapter 92, HRS.

Additions to the

Agenda:

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

8. **Licensing - Restoration of Forfeited Licenses
Over Two Years - Salesperson**
01/01/91 James M. Merrell
9. **Licensing - Questionable Applications**
Kevin R. Carney
Patrice Anne Placencia
DGM Group, Inc.
Arlene Patterson dba Arlene Patterson Realty
Jill Johnson

Additional

Distribution:

The following were distributed to the Commissioners for their consideration:

6. **Committee Reports**
 - b. **Laws and Rules Review Committee
CHO Registration**
9. **Licensing - Questionable Applications**
Michael H. Nolan

Supervising Executive Commissioner Butuyan was excused from today's meeting.

Secretary's Report:

Christine Rutkowski will be returning to the Real Estate Commission as its Executive Secretary. She will also be handling the Mortgage Brokers and Real Estate Collection Servicing Agents programs.

Ms. June Kamioka will be handling the Board of Medical Examiners, Board of Osteopathy, and will also continue to handle the Subdivision, Travel Agency and Activity Desk programs. Ms. Verna Tomita will be handling the Real Estate Appraiser Licensing program. These changes will become effective on January 3, 1994.

The Commission's meeting schedule for 1994 was distributed to the Commissioners for their information. The Chair reported that he is the Regional Vice-President of the National Association of Realtors in 1994 and as such he will be travelling extensively in 1994. He stated that he will

discuss and coordinate any Commission meeting conflicts with the Vice-Chair. The Commissioners were also asked to inform staff of any possible conflicts as soon as possible.

Acceptance of Minutes: Upon a motion by Commissioner Dew, seconded by Commissioner Kano, it was voted on and unanimously carried to accept the minutes of the October 29, 1993 Real Estate Commission meeting, as circulated.

Committee Reports: Condominium and Cooperative Review Committee

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Lee, it was voted on and unanimously carried to accept the report and the recommendations of the November 5, 1993 Condominium and Cooperative Review Committee Meeting, as follows:

1. Accept the minutes of the October 6, 1993 meeting.
2. Hawaii Real Estate Research and Education Center Report
 - a. Condominium Association Budget and Reserves
 - (1) Kauai Workshop - was held on October 23, 1993, at the Kauai Community College.
 - (2) Guide - HREREC determined update necessary.
 - b. Hawaii Condominium Bulletin
 - (1) Fall 1993 - Issue to be distributed by December 1, 1993 to registered condominium associations and condominium agents. Issue emphasizes registration requirements and deadlines for condominium association registration, managing agent registration, etc.
 - (2) Winter 1993/94 - Issue to include information taken from the 1994 REC Report to the Legislature, and (tentatively) a timely educational calendar of events listing seminars presented by organizations concerned about condominiums (e.g., CAI, IREM, HCAAO, HICCO, South Maui Condominium Council).
Recommend setting distribution dates and other deadlines for all quarterly issues in advance and meeting those dates to ensure timely distribution, especially those issues with information regarding seminars, meetings, hearings, etc. HREREC to work with Commissioner Lee and Condominium Specialist Okumura to decide on dates to be reported at the next meeting.
 - c. Condominium Board of Director's Guide
 - (1) Liability Chapter - is in the process of being laid out.
 - (2) Proxy Chapter - Comments regarding the outline are due November 15, 1993. Chair recommends that HREREC consider the practical problems of AOAOs with the proxy issue.
 - (3) Curriculum - Drafts of the condominium surveys will be circulated to a select focus group for their input. Comments are due by November 15, 1993.

Reminder that the Condominium Board of Director's Guide is a priority program of work item, especially since it serves as a base/foundation program for many other programs.

- d. **Media Educational Articles - Program projected for the end of the fiscal year by HREREC.**
- e. **Five Year Education and Research Plan - HREREC awaiting the REC transmittal of the evolving document with the latest editions.**
- f. **Condominium Seminars - A CAI-developed seminar is scheduled for Kailua-Kona on December 4, 1993, 9:00 a.m. to 12:30 p.m., at the Kona Surf Hotel. HREREC and CAI are finalizing contract. Due to increased administrative costs and expenses, CAI has increased its registration fees from \$20 to \$35 for registered associations and from \$35 to \$55 for all other registrants. Request that a quantity of "flyers/registration forms" be provided to REB office ASAP.**
- g. **Condominium Survey - Chair has serious concerns about the latest draft and suggested that the survey be revised as a written survey, or greatly reduced for effective responses as a telephone survey. HREREC acknowledged concerns and will consider them in the next draft. The survey will be reviewed by an expert prior to issuance.**
- h. **HREREC Interaction Program - HREREC participated in a recent CAI seminar entitled, "Coming Crisis in Condominium Association Management." Ms. Yee spoke on the status of the reserve rules and highlighted the impact of the reserve law on board members.**
- i. **Federal Leasehold Study - Study is progressing as anticipated.**

3. Budget and Finance Committee Report

The Supervising Executive Secretary reported budget crisis, strict rules/policies, general fund problems, special fund problems, and CMEF concerns. The REB is affected especially in the area of postage and supplies paid by the General Fund.

CMEF is also in a crisis watch situation this fiscal year because of mandatory cutbacks, spending/budget ceilings, new approval process, and more recently, taking a greater responsibility for postage and supplies for its programs. More resources, especially staff time, will be utilized to monitor expenditures, develop projections, research and study ways to decrease costs or alternative ways to accomplish programs, develop up-to-date financial records/reports, etc. this fiscal year. Therefore a number of programs will be decreased in scope, delayed, combined, deferred, or cancelled.

Efforts are being made to reduce extraneous mailings, develop priorities for mailings, request self-addressed, stamped envelopes, impose the state requirement of \$.25 per side for copying public information and encourage pick-up for locally-based persons or businesses. Mandatory recycling is continuing.

Although many in the condominium community have started to express continued support, offered assistance, and empathized with the situation, others have expressed indignation and continue to insist that their personal requests be met and threaten legislative action.

4. **Program of Work**
 - a. **Condominium Mediation and Arbitration Program - Specialist Stone to work on arbitration rules to be included in the present rulemaking on Chapter 107, Hawaii Administrative Rules ("HAR").**
 - b. **Condominium Association Registration - Specialist Stone reported that the packet is being prepared to distribute next week. The following changes were implemented:**
 - (1) **Requires an authorization letter from an AOA officer to delegate all registration matters to the contracted CMA, if applicable, to clarify who will be responsible for completing AOA registration.**
 - (2) **Explains that the completed registration form will become public record and available for public review.**
 - (3) **Includes a number of amended and new questions, especially on budget and reserves, leasehold to fee simple conversions, how directors communicate to apartment owners, etc.**
 - c. **Condominium Managing Agent Registration - Specialist Stone reported that the new list of registered CMAs is available at a cost of \$.25 per side. The packet is being prepared for distribution next week. Early registration is encouraged.**
 - d. **Condominium Specialists Office for the Day - Specialists Stone and Shiroma reported on their visit to Kauai on October 22, 1993. Concerns of those who spoke to the Specialists were noted and appreciated. A tentative date of Friday, January 14, 1994 was set for the next Condominium Specialists Office for the Day on Maui.**
 - e. **Interactive Participation with Organizations -**
 - (1) **Specialists Okumura and Stone reported on their attendance to the CAI Hawaii Chapter Annual Meeting, October 8, 1993. He will be attending another CAI seminar in November pending approval.**
 - (2) **Commissioner Lee reported on her attendance at the CAI 35th National Conference, October 7 - 9, 1993. Materials from various seminars were displayed and are available from Commission staff. It was suggested that the Committee invite Ms. Barbara Byrd-Lawler, Executive Vice-President of CAI, to the next CCRC meeting, if her schedule allows, while in Hawaii.**
5. **Condominium Governance and Management**
 - a. **Eligibility of Trustee or Beneficiary to Serve as Director - Update - Chair expressed gratitude to Jan A. Kobayashi, Esq. and Ronald Y. Shigetani, Esq., for providing an informal**

- response to the issues presented by S. V. Bud Quitquit.
Specialist Okumura to send response.
- b. **Metering of Utilities - Specialist Okumura to send response letter and, if necessary, take the issue under consideration for rule making.**
 - c. **Community Associations Institute - Which Reserve Funding Method is Best for Your Association - Specialist Okumura to review the proposed budget and reserves rules and report on whether any particular method is favored or conflicts, and whether more generic rules should be developed.**
 - d. **Hawaiian Humane Society - Pets in Housing - Recommend that Specialist Okumura express thanks to the Hawaii Humane Society for providing information about pets and housing and request final versions of their publications. Chair recommends an article be developed for the Bulletin.**
 - e. **Office of Information Practices - Disclosure of Condominium Association Registration - Recommend acceptance of advisory opinion.**
 - f. **Application of Budget and Reserves Requirements to Projects Created Before and After January 1, 1993 - Recommend acceptance of the clarified addition to the proposed rules. Specialist Okumura to consult with all approving parties and report whether this addition will materially delay the proposed budget and reserves in the formal rulemaking process. If so, it shall be added to the next Chapter 107, HAR, rulemaking proposal.**
6. **Project Registration, Public Reports, and Sales to Owner-Occupants**
- a. **§514A-40(B)(1), HRS - County Statement Requirements - Recommend to defer issue, pending receipt of response from the various counties.**
 - b. **Declaratory Ruling Request - The Krieg Condominium Recommend to assign the petition to the Office of Administrative Hearings ("OAH") for further proceedings in accordance with Subchapter 3, Chapter 201, HAR, subject to petitioner providing clarification to the petition. Specialist Shiroma to work with petitioner for clarifications, followed by formal assignment to OAH.**
7. **Next Meeting: Wednesday, December 1, 1993
9:00 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii**

Commissioner Lee reported that Barbara Byrd-Lawler of the Community Associations Institute (CAI) will be present at the next Condominium and Cooperative Review Committee Meeting.

Laws and Rules Review Committee

Upon a motion by Commissioner Kano, seconded by Commissioner Imamura, it was voted on and unanimously carried to accept the amended report of the November 5, 1993 Laws and Rules Review Committee Meeting, as follows:

1. **Chair Nishikawa appoints self to Committee. Committee Secretary to handle appointing document.**
2. **Accept the minutes of the October 6, 1993 meeting.**
3. **Legislative Reference Bureau - SES reported on the latest report from LRB Director Chang on the progress of the Housing Report with HREREC.**
4. **HREREC Report**
 - a. **Director reported unable to attend due to out of town subpoena.**
 - b. **Professional Responsibility Course**
Associate Director Gilbert, the developer of the subject course, was to provide the initial summary of the final draft of the subject course and be available for questions since its distribution at the last ERC meeting but had to leave to teach a UH class as other agenda items over extended. All comments on final draft needs to be received at HREREC by November 10, 1993.
5. **Program of Work and Budget, FY94**
 - a. **Mandatory Continuing Education Legislation**
Chair Nishikawa reported that Representative Robert Bunda, Speaker of the House Joe Souki, and Director Clifford Higa strongly support the REC's Mandatory Continuing Education Bill and will assist in its passage. Upon organization of the Senate, we shall initiate talks with the CPC Chair.
 - b. **NARELLO National Disciplinary Action Data Bank**
RES Teshima reported on the progress of the program and will complete submission to NARELLO by December 1, 1993. Thereafter, background checks on applicants will include verification with subject Data Bank if there is any indication that the applicant may have lived out of state and/or may have been previously licensed, subject to finalization of the payment of fees.
 - c. **Condominium Hotel Operator Registration**
CS Stone reported that registration applications have been distributed and encourages CHOs to complete registration early.

Recommend approval on informal opinion:

 - (1) **An active real estate salesperson licensee associated with or employed with Broker A cannot operate as a CHO independent of Broker A, i.e., as a sole proprietor CHO, the general partner or employee of a partnership CHO (broker licensee or not), or as an officer or employee of a corporation CHO (broker licensee or not).**

- (2) An active real estate salesperson licensee associated with or employed with Broker A cannot work in any capacity with Broker B CHO operation, including customary hotel duties.
- (3) An active real estate salesperson who is associated with or employed with Broker A, who is offering own apartments for CHO activity, shall operate CHO activity under Broker A, who has register as a CHO. See (1) related issue.
- (4) An inactive real estate salesperson, who is offering own apartments for CHO activity, shall register as a CHO and can operate the CHO operation as a sole proprietor utilizing the broker exemption provision and cannot utilize the broker exemption if they are offering apartments for others.
- (5) An inactive real estate salesperson can work in a CHO operation where the operator is a real estate broker only if the inactive salesperson is performing or facilitating the delivery of customary hotel services, if not, shall activate salesperson license to be associated under CHO broker license.
- (6) That an owner (not partnership or corporation) of condominium apartments, who is not a real estate licensee, who offers his/her own condominium apartments for transient lodging for periods of less than thirty days, is not required to register with the Real Estate Commission as a condominium hotel operator. If the owner is also offering condominium apartments owned by others for transient lodging for periods of less than thirty days, then the owner is subject to the condominium hotel registration requirements.

All references to salespersons includes broker-salespersons. CS Stone to finalize informal opinion memorandum and develop any proposed statutory or rule amendments.

6. Thomas L. H. Yeh - Tong Partnership, Owner Exemption Recommend that RES Yamane and SES to consult with Executive Secretary Kamioka and Deputy Attorney General and report back to REC.
The Commission determined that the subject issues concern the subdivision requirements of Chapter 484, HRS, of which the Commission has no jurisdiction. The issues should be addressed to the Executive Secretary, Subdivision Program.
7. NARELLO Report
 - a. EPA Radon Information - To be a part of the reference library.
 - b. Annual Conference Report - Reported on annual conference and presented reference materials.
8. Next Meeting: Wednesday, December 1, 1993
10:30 a.m.
Kapuaiwa Room

HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Education Review Committee

This matter was deferred for consideration later in the meeting.

Licensing:

Ratification

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

Real Estate Brokers

Blue Ribbon Realty, Inc.
Watson Properties, Inc.
Carol K. Choda dba Country Lands & Homes
Donna Y. Shiraki dba Kaimana Realty
Teney K. Takahashi
George Matsuo dba Alexel Properties
Castle & Cooke Homes Hawaii, Inc.

Real Estate Branch Office

Urban Management Corp. (Lihue, Kauai)
Realty Executives Banyan, Inc. (Kailua-Kona, Hawaii)

Site Office

Gentry Realty, Ltd., Sunrise Gentry Homes
Gentry Realty, Ltd., Ewa by Gentry, - Sun Terra
Schuler Realty/Oahu, Inc. - Parkglen at Waikele
Residential Resources - Windward Acres
Locations, Inc. - Waiolani at Waikapu, Lot #116
Marcus & Associates, Inc. - Papohaku Ranchlands
Tongg Realty, Inc. - Olaloa, Projects I and II

Trade Name

Wayne Satoshi Masuda dba Wayne Masuda Realtor
Ranulfo Duterte Ramones dba RAM Realty Group
Property Merchants, Inc. dba Century 21 Hale Ohana Realty

Condominium Project Registration - Public Reports Issued - October 1993

122 Wahie Lane Place, Maui (Preliminary)
Aiea Hale Popoki, Honolulu (Final)
Liko O'Kalihawai, Kauai ((Final)
Carter Professional Center, Hawaii (Supplementary)
1830 Wells Street Building, Maui (Final)
Nalani Gardens, Kauai (Final)
Paleka Road, Honolulu (Final)
Country Club Hawaii, Hawaii (Supplementary)
J. Sperling Condominium, Hawaii (Final)
Wahi Nani, Hawaii (Final)
3634 Sierra Drive, Honolulu (Final)

Keopuka Estates, Hawaii (Final)
Spencer Terrace, Honolulu (Preliminary)
Olaloa - Project III, Honolulu (Preliminary)
Puu Eha, Kauai (Final)
Seaside Suites, Honolulu (Preliminary)

Committee Reports: Education Review Committee

Upon a motion by Commissioner Hirata, seconded by Commissioner Dew, it was voted on and unanimously carried to approve the amended report of the November 23, 1993 Education Review Committee, as follows:

1. HREREC Report
 - a. Advisory Council - Reappointment letters have been issued to Mssrs. Aaron Chaney, Donald Clegg, John Reilly, and Oswald Stender and Ms. Karen Nakamura. Only Mr. Chaney's response has been received. Ms. Jane Tatibouet's resume has been received. Defer nomination and appointment to the December 16, 1993 Education Review Committee Meeting.
 - b. Program of Work and Budget, FY94
 - (1) Five Year Education and Research Plan - Acknowledge receipt of the HREREC five year plan draft entitled "Five-Year Real Estate Education Plan FY 1992 Through 1997, Real Estate Commission, State of Hawaii." HREREC requests that the Five Year Plan be added to the Laws and Rules Committee meeting agenda for December 1, 1993, and that Commission and staff review and comment before then. HREREC also advised the ERC that an Advisory Council meeting has been scheduled for November 30, 1993, to discuss HREREC's Five Year Plan and the tie-in with REC's Five Year Plan.
 - (2) Broker Curriculum and Resources - Acknowledge receipt of HREREC's report, prepared by Sherry A. Goya, entitled "Broker's Curriculum Survey for the Island of Oahu."
 - (3) Continuing Education 93-94 Core Course - HREREC is finalizing the last 1993 update for core course. It should be ready for distribution by the December 16, 1993 Education Review Committee Meeting.
 - (4) Continuing Education 93-94 Three Elective Courses - HREREC waiting for information from HUD to complete elective course on fair housing. HUD information must be incorporated throughout the course materials. HREREC anticipates that the fair housing course will not be approved until January 1994.
 - (5) Publication Articles and Newspaper Column - HREREC will succeed HBR and commence writing the Q & A column in the Honolulu Advertiser's Sunday edition.

- (6) **Alternative Delivery of Real Estate Education - HREREC is exploring the Atlanta Board of REALTORS interactive computer education programs.**
 - (7) **Four Brochures - Fair Housing, Material Facts, Hazardous Conditions, and A Real Estate Consumer's Regulatory Protections in Hawaii - HREREC reports that their supply of fair housing brochures has been exhausted.**
 - (8) **Start-Up Kit for New Licensees - HREREC is compiling the kit into one volume. HREREC needs to draft the advertising brochure.**
 - (9) **Acknowledge receipt of the Professional Responsibility Course revisions dated November 17, 1993. HREREC stated that 60% of the course would remain the same for all candidates and 40% of the course would be individualized for each candidate. HREREC will provide review copies of the appendices discussing the course scenarios. Staff to follow-up with HREREC regarding RICO's comments and arrange a meeting with HREREC, RICO and staff to discuss course substance and implementation.**
 2. **Continuing Education Administration, Curriculum, Courses, Providers and Instructors**
 - a. **Application and Certification**
 - (1) **Instructor - Max Sherley - Recommend approval of Mr. Sherley to teach the course category "Property Management", and the elective courses "Pitfalls in Residential Listings" and "Understanding Agency Disclosure".**
 - (2) **Instructor - Abraham W. H. Lee - Recommend approval of Mr. Lee to teach the course category "Real Estate Law Update and Ethics".**
 - (3) **Instructor - Gino Gabrio - Recommend deferral to the December 16, 1993 Education Review Committee meeting, pending receipt of further documentation.**
 - (4) **Provider - CLE International - Recommend approval of CLE International as a continuing education provider, subject to receipt of surety bond or alternate form of security.**
 - (5) **Course - "Advanced Conference on Real Estate Purchase and Sales" (CLE International) - Recommend deferral to December 16, 1993 Education Review Committee meeting, pending receipt of further documentation.**
 3. **Prelicensing Education Administration, Curriculum, Schools, and Instructors**
 - a. **Administrative Issues - John F. Stapleton, Hawaii Institute of Real Estate - Recommend approval of Mr. Stapleton's request to conduct joint broker/salesperson classes in 1994, subject to the following conditions: 1) that broker and**

salesperson candidates complete the required prerequisite instructional hours (45 hours for salesperson candidates and 46 hours for broker candidates);

2) that each curriculum be complete and instructed according to the certified curriculum previously approved and on file with the Commission; 3) that permission to hold the joint sessions is conditional for a period of one year and shall expire on December 31, 1994; and 4) that the joint sessions may be monitored by the Real Estate Commission without prior notice. Recommend that REC delegate the authority to REC staff to approve and deny future requests to conduct joint broker/salesperson classes.

4. **Prelicensing Examination**
 - a. **Exam Site Monitoring**
 - 1) Reported on November 2, 1993 monitoring of Honolulu exam site.
 - 2) Reported on November 6 monitoring of Maui exam site. In that, no exam was administered at the scheduled exam site according to the preprinted schedule and investigating the matter with ASI.
 - b. **Administration**
 - 1) Staff to monitor dialogue between ASI and Mr. Stapleton regarding his request to accommodate the real estate examination candidate overflow anticipated for the December 18, 1993 Kauai examination.
 - 2) ERC announced the on-site visit to ASI Oahu Testing Facility for Prelicense
Schools/Instructors/Administrators:
Date: December 10, 1993 (Friday)
Time: 8:00 a.m.
Place: ASI Assessment Center
Kamakee Vista Building
1050 Queen Street
Suite 302
Honolulu, Hawaii 96814
 - 3) Reported on 1st quarter exam results - FY94.
5. **Program of Work and Budget, FY94**
Interactive Participation with Organizations - REEA award submissions are due February 15, 1994. HREREC will submit for two awards: 1) Most Outstanding Education Program and 2) Regulator of the Year. Submissions will be sent in January 1994. HREREC was instructed not to use overnight postal service.
6. **Budget and Finance Report - Accept the Real Estate Education Fund 1st Quarter - FY 1994 Report, dated November 10, 1993.**
7. **NARELLO and REEA Report - Accept the accounting update of contributions from ASI to NARELLO's education fund, dated October 26, 1993.**
8. **Special Issues**
 - a. **Kona Coast Resort Limited Partnership - Donation to Real Estate Education Fund - Deny acceptance of the \$500.00 donation made by the Kona Coast Resort Limited Partnership to the Real Estate Education Fund, based on previous denials.**
 - b. **Approve the policies regarding "Request for Copies of**

Meeting Agenda and/or Minutes/Request for Copies of Public Documents or Records" and "Recipients of Copies of Agenda, Minutes, or Public Documents" as Real Estate Commission policies.

9. **Next Meeting: Thursday, December 16, 1993, 9:00 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii 96813**

Licensing:

Questionable Applications

Kevin R. Carney

Mr. Carney was present to answer any questions regarding his application for a real estate broker's license and his real estate broker's experience certificate.

Mr. Carney stated that he had received an experience certificate after his request for an equivalency to the real estate broker's experience requirement was denied. Upon receipt of the experience certificate, he assumed that he could proceed to take the real estate broker's licensing examination. He also stated that he was hospitalized after major surgery and was out of work for one month. He has been active as a real estate salesperson since receiving his license. He is involved in commercial leasing and has been with the same company for the past 12 years.

Mr. Carney was asked if there was a transmittal letter or a memorandum accompanying the experience certificate. Mr. Carney stated that only the experience certificate was enclosed in the envelope that he received.

Mr. Carney was asked if he had called the Commission or had asked his principal broker about the matter when he received the denial letter, followed by the experience certificate. Mr. Carney stated that he spoke with the principal broker and the president of the company. He stated that when he received the denial letter, he would have to submit more information. But the next day when he received the experience certificate, he assumed that he had been granted the experience certificate. He stated that the individuals with whom he had spoken to had told him not to worry about it because he had the necessary background and experience. Mr. Carney stated that he had received the letter on May 29 or 30, 1993 and on June 7, 1993 he was admitted to the hospital.

Mr. Carney was informed that the Commission would be addressing the issue of the original denial and why the experience certificate was issued. The Commission will be reconsidering its previous denial. At best, the Commission would approve the application or may require that Mr. Carney submit a new application.

Mr. Carney was informed that the documents from his original submission did not include agency disclosures in the leases. His principal broker had stated that they did not feel that the disclosure was required or necessary

for commercial leases. However, since then, they have gone ahead and have been including the disclosure statements in the lease transactions. Mr. Carney was also informed that the Commission did not recognize any of the transactions in which there is a violation of the licensing laws and rules. There were also questions as to who reviewed the transactions - the principal broker, the developer, or the owner of the property. Mr. Carney stated that they have since rectified the problem with the agency disclosures and include that in their lease agreements.

Mr. Carney stated that he has received is MBA, with the emphasis on Marketing. He also received his BOWMA Real Estate Administrator Certificate in 1987. The courses which he had to complete to receive the designation are similar to those you would take for a CPM designation. They included accounting, management, leasing, building management courses, lease administration, etc. He completed seven courses, each course lasting 40 hours. Mr. Carney stated that he had a waiver for the accounting courses because he has an undergraduate degree in accounting.

Mr. Carney was asked if he had participated in any other transactions during the time that he was licensed. Mr. Carney stated that he had purchased his own townhouse through the company in 1986 and that he had not had any other personal transactions.

Mr. Carney was asked who drafted the lease agreements which did not contain the proper disclosure. Mr. Carney stated that they had been drafted by the in-house counsel for Kaiser Development Co. Kaiser Development Co. was bought out by Bedford Co. and each had their own lease agreements which they tried to combine. Dave Johnson's firm looked at the contracts and then redrafted it. They were using their in-house legal counsel to draft their leases. In each transaction, they would start out with the standard lease agreement and then it would be given to the client's attorney for review. If there were minor changes, he would make the changes. If there were major changes, the lease agreement would be referred to their outside legal counsel, Alston Hunt & Floyd. Mr. Carney stated that he negotiated all of the individual points on the lease and then the attorneys would review the contracts.

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

Recess: The Chair recessed the meeting at 10:05 a.m.

Reconvene: The Chair reconvened the meeting at 10:21 a.m.

Adjudicatory Matters: The Chair called for a recess from the Commission meeting at 10:21 a.m., to discuss and deliberate on the following matters pursuant to Chapter 91, HRS:

Harold R. Jones; Jones, Inc. dba ERA Jones Properties International;
James T. Costello; REC 92-223-L. The Commission express serious

concerns as to the non-appearance of the Hearings Officer assigned to the case, nor was there any communication about their non-attendance. In addition, the Commission expressed concerns about the Hearings Officer's recommendation on the real estate course as it did not comply with the Commission's recommendations in its September 24, 1993 Memorandum to the Office of Administrative Hearings. Upon a motion by Commissioner Dew, seconded by Commissioner Hirata, it was voted on and unanimously carried to approve the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order as to James T. Costello, subject to deletion of the word "refresher" in the Commission's Final Order.

Chair's Report:

The Commission shall send a letter to Commissioner Duncan in recognition of her receiving the Richard Smart Award.

Executive

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

Session:

voted on and unanimously carried to enter into executive session, pursuant to Section 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 Kano, seconded by Commissioner Lee, it was voted on and unanimously carried to move out of executive session.

Licensing:

Restoration of Forfeited License

James M. Merrell

After a review of the information submitted by the applicant, Commissioner Dew moved that restoration be approved upon submitting evidence of successfully passing the real estate salesperson's licensing examination. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Questionable Applications

Robert John Schneider

After a review of the information submitted by the applicant, Commissioner Hirata moved to approve the real estate sole proprietor broker application of Robert John Schneider. Commissioner Imamura seconded the motion. The motion was voted on and unanimously carried.

Michael H. Nolan

After a review of the information submitted by the applicant, Commissioner Kuriyama moved to approve the real estate sole proprietor broker application of Michael H. Nolan. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Fantasy Island Marketing, Inc.

After a review of the information submitted by the applicant, Commissioner Lee moved to approve the real estate broker corporation application of Fantasy Island Marketing, Inc. Commissioner Hirata seconded the motion. The motion was voted on and unanimously carried.

Mark D. Hogue

After a review of the information submitted by the applicant, Commissioner Dew moved to defer consideration of Mr. Hogue's broker experience certificate application. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Kimberly Katherine Miyasaki

After a review of the information submitted by the applicant, Commissioner Kuriyama moved to approve Ms. Miyasaki's real estate broker experience certificate application and her request for an equivalency to three closed sales and three closed listing real estate transactions. Commissioner Hirata seconded the motion. The motion was voted on and unanimously carried.

West Hawaii Property Services, Inc.

After a review of the information submitted by the applicant, Commissioner Imamura moved to approve the conditional Condominium Hotel Operator registration of West Hawaii Property Services, Inc. Commissioner Dew seconded the motion. The motion was voted on and unanimously carried.

Kevin R. Carney

After a review of the information presented by the applicant, Commissioner Lee moved to defer Mr. Carney's real estate broker application and real estate broker experience certificate application to the December 17, 1993 Real Estate Commission Meeting and requests that Mr. Carney submit a new application for real estate broker's experience certificate. Commissioner Hirata seconded the motion. The motion was voted on and unanimously carried.

Patrice Anne Placencia

After a review of the information submitted by the applicant, Commissioner Dew moved to approve Ms. Placencia's real estate broker's experience certificate application and her request for an equivalency to one closed listing sale. Commissioner Lee seconded the motion. The motion was voted on and unanimously carried.

DGM Group, Inc.

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

Arlene Patterson dba Arlene Patterson Realty

After a review of the information submitted by the applicant, Commissioner Imamura moved to approve the real estate broker sole proprietor application of Arlene Patterson dba Arlene Patterson Realty. Commissioner Dew seconded the motion. The motion was voted on and unanimously carried.

Jill Johnson

After a review of the information submitted by the applicant, Commissioner Kano moved to approve the surrender of Ms. Johnson's real estate salesperson's license. Commissioner Hirata seconded the motion. The motion was voted on and unanimously carried.

Delegation: Upon a motion by Commissioner Dew, seconded by Commissioner Imamura, it was voted on and unanimously carried to delegate to staff the authority to decide on the surrender of a real estate license application, except in cases where there are pending complaints filed with RICO.

Next Meeting: Friday, December 17, 1993
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, the Chair adjourned the meeting at 11:28 a.m.

Reviewed and approved by:

Calvin Kimura
Supervising Executive Secretary

Date