

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, June 27, 1997

Time: 9:00 a.m.

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

Present: Barbara Dew, Chair
Stanley Kuriyama, Vice Chair
Charles Aki, Hawaii Member
Michael Ching, Kauai Member
Alfredo Evangelista, Public Member
Alvin Imamura, Maui Member
Carol Mon Lee, Public Member
Nora Nomura, Public Member

Calvin Kimura, Supervising Executive Officer
Christine Rutkowski, Executive Officer
Edmond Ikuma, Senior Real Estate Specialist
Lee Ann Teshima, Real Estate Specialist
Russell Wong, Real Estate Specialist
Cynthia Yee, Senior Condominium Specialist
Camille Chun-Hoon, Condominium Specialist
Shari Wong, Deputy Attorney General
Irene Kotaka, Secretary

Steve Gilbert, Hawaii Real Estate Research and Education Center
Nicki Thompson, Hawaii Association of REALTORS
Jan Yamane, Program Specialist
Rodney Maile, Senior Hearings Officer

Excused: Helen Lindemann, Oahu Member

Call to Order: The Chair called the meeting to order at 9:01 a.m., at which time quorum was established.

Chair's Report: The Chair thanked everyone, especially Vice Chair Kuriyama, the Executive Officer, the Commissioners and staff, for their support while she was on the Commission. She stated that she is willing to assist the Commission if her assistance is needed.

Executive Officer's Report: **Announcements, Introductions, Correspondence and Additional Distributions**

The following materials were distributed prior to the start of the meeting:

3. Executive Officer's Report

- a. Announcements, Introductions, Correspondence, and Additional Distributions
 - 1) Letter from Governor Benjamin Cayetano - Appointment of Alvin M. Imamura as Chairperson of the Real Estate Commission, effective July 1, 1997.
 - 2) 1997 Boards and Commissions Swearing-In Ceremonies - Mitchell A. Imanaka and John Ohama, July 21, 1997, 2 p.m., House Chambers, State Capitol
- b. Minutes of Previous Meetings
6. Licensing - Questionable Applications
LynnCo Inc.
Hale Kai Resort Rentals, Inc.
7. Chapter 91, Hawaii Revised Statutes, Adjudicatory Matters
 - h. Marion Libbie Kamisugi and Libbie & Company, Inc., Civil No. 95-3772-10, Order Affirming the Real Estate Commission's Final Order and Affirming the Real Estate Commission's Denial of the Motion for Reconsideration
9. Committee Reports
 - a. Laws and Rules Review Committee - Program of Work
 - b. Condominium Review Committee - Program of Work
 - c. Education Review Committee - Program of Work

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

6. Licensing - Questionable Applications
Kaanapali Production Company, Inc., Coconuts Activity Center
M. Nalani Finsand

The Commissioners were informed that the Licensing Administrator will be joining the meeting at 10:30 a.m. and that the Special Deputy Attorney General will be coming at 10:15 a.m. to discuss the adjudicatory matters.

Minutes of Previous Meetings

Upon a motion by Commissioner Lee, seconded by Commissioner Imamura, it was voted on and unanimously carried to approve the minutes of the March 25, 1997 Real Estate Commission meeting as amended and to approve the minutes of the April 25, 1997 and the May 23, 1997 Real Estate Commission meetings as circulated.

The Chair was excused from the meeting due to a conflict of interest. The Vice Chair presided over the meeting.

Licensing and Registration - Ratification:

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

<u>Brokers - Corporations and Partnerships</u>	<u>Effective Date</u>
Libra Resort Properties, Inc.	05/09/97
Sunshine Homes, Inc. Randal E. Bahner, PB	05/21/97
Whale's Tail Realty, Inc. Sarah J. Sorenson, PB	05/09/97
Maui For Sale By Owner Assistance Program, Incorporated Maui Timeshare Resales Gay G. Partin, PBPropacific Corp.	05/19/97

05/16/97 Randy Y. F. Hew, PB Hawaii First, Inc.	05/16/97
Jeanette Frahm, PB Hotel Partners, Inc.	05/06/97
Ronald K. Watanabe, PB Realty Advisors, Inc.	05/28/97
Jan R. Medusky, PB Big Island Management Services Inc.	06/05/97
Kathleen E. Oshiro, PB	

<u>Brokers - Sole Proprietor</u>	<u>Effective Date</u>
Thomas C. Clark Tom Clark Realty	06/01/97
Marjorie C. Y. Au	05/07/97
Bonnie W. K. Cheung	05/13/97
Pamela H. Medeiros	04/30/97
Richard H. Kuitunen	05/14/97
Kevin D. Cole	05/16/97
John M. Urner	06/05/97
Daryl R. Gerloff Gerloff Realty	06/06/97
Reuben K. Nemoto Rainbow Realty	06/10/97

<u>Tradenname</u>	<u>Effective Date</u>
Robert G. Colley, Colley and Associates, REALTORS	05/14/97

<u>Site Office</u>	<u>Expiration Date</u>
Schuler Realty/Oahu, Inc. Pualani by the Sea	11/22/97
Schuler Realty/Oahu, Inc. Ma'ili Kai	11/24/97
Castle & Cooke Homes, Hawaii, Inc. Lalea at Hawaii Kai	11/30/97
Kapalua Realty Co., Ltd. Plantation Estates	12/10/97
Properties Unlimited, Inc. Trovare	12/25/97
Properties Unlimited, Inc. Piikoi Hale	12/30/97
Whalers Realty Inc. Kaanapali Golf Estates Sales Office	12/10/97
The Bay Club Ownership Resort, Inc. The Bay Club at Waikoloa Beach Resort	11/30/97
The Prudential Locations, Inc. Kahala Kua Westhills Subdivision Palm Drive Hale Makalei	11/12/97
Schuler Realty/Oahu, Inc. The Classics at Waikele	12/06/97
Whalers Realty, Inc. Kaanapali Alii	12/27/97
Maui Lani Realty, Inc. The Greena at Maui Lani	11/12/97

Castle & Cooke Homes Hawaii, Inc. Mililani Mauka, Unit 116	12/14/97
Coldwell Banker Pacific Properties, Ltd. Waikiki Landmark	12/14/97
Coldwell Banker Pacific Properties, Ltd. Hawaiki Tower (Nauru Tower)	01/07/98
Coldwell Banker Pacific Properties, Ltd. Seaside Suites Nuuanu Parkside	01/08/98
The Prudential Locations, Inc. The Bluffs	11/12/97
Concepts Unlimited, Inc., ERA Concepts Unlimited Makamae	11/28/97
Castle & Cooke Homes Hawaii, Inc. Unit 111 - Ku'ulako	11/24/97
Coldwell Banker Pacific Properties, Ltd. Harbor Court	01/08/98
Realty Executives Hawaii Alii Lani Townhomes, Phase 1A & 1B	11/23/97
Kahana Falls, Ltd., a Hawaii Limited Partnership Kahana Falls	11/30/97
The Prudential Locations, Inc. Kahului Ikena	12/04/97

<u>Branch Office</u>	<u>Effective Date</u>
Maui For Sale By Owner Assistance Program, Inc. Maui Timeshare Resales James L. Helton, BIC Gay G. Partin, PB	05/19/97

<u>Education Waiver Certificate</u>	<u>Expiration Date</u>
Joanne Virginia Louie	05/27/98
Sakiko Teipel	06/06/98

<u>Real Estate Broker Experience Certificate</u>	<u>Expiration Date</u>
Hisako C. Wada	05/06/98
Erlinda P. Lucas	05/29/98
Leonor I. Tuazon	06/02/98
Gina S. Watase	06/10/98
David L. Turner	06/13/98

<u>Real Estate Broker (upgrade)</u>	<u>Effective Date</u>
Bennett J. Walin	05/19/97
Mark W. Mullen	05/13/97
Scott E. O'Brien	05/22/97
Paul S. M. Wong	05/19/97

<u>Condominium Managing Agent</u>	
Koll Asia Pacific-Hawaii, Inc.	06/12/97

<u>Condominium Hotel Operator</u>	<u>Effective Date</u>
Realty West, Ltd.	05/23/97

The Chair returned to the meeting and resumed presiding over the meeting.

Committee Reports:

Laws and Rules Review Committee

Upon a motion by Commissioner Nomura, seconded by Commissioner Lee, it was voted on and unanimously carried to accept the report of the June 17, 1997 Laws and Rules Committee meeting and to defer discussion of item 3. b. to later in the meeting, as follows:

1. Committee Meetings - Change in Times Starting with July 1997
9:00 am Laws and Rules Review Committee
10:30 am Education Review Committee
1:30 pm Condominium Review Committee
2. HREREC Report
Real Estate Seminars - "Land Title Problems In Hawaii" will be rebroadcast on July 1, 1997, 3:00 p.m. to 4:30 p.m. on all islands, via the public access channel on cable television network.
3. Program of Work
 - a. Rule Making, Chapter 99, Real Estate Brokers and Salespersons - Discussion with representatives of the Hawaii Association of Realtors on written comments submitted. Defer further discussion to next meeting with staff reviewing written comments received and determining feasibility of amendments.
 - b. Program of Work and Budget FY98 - **Recommend approval** of Draft 1-A, subject to incorporating PVL comments where appropriate and feasible in next draft, for distribution at the June 27, 1997 Real Estate Commission meeting for review and finalization.
4. Next Meeting: Wednesday, July 9, 1997
 9 a.m.
 Kapuaiwa Room
 HRH Princess Victoria Kamamalu Building
 1010 Richards Street, Second Floor
 Honolulu, Hawaii

Condominium Review Committee

Upon a motion by Commissioner Aki, seconded by Commissioner Evangelista, it was voted on and unanimously carried to accept the report of the June 17, 1997 Condominium Review Committee meeting and to defer discussion of item 4. e. to later in the meeting, as follows:

1. Minutes - **Accept** minutes of March 12, 1997 and April 9, 1997 meetings.
2. HREREC Report
 - a. Hawaii Condominium Bulletin - Third issue for this fiscal year scheduled for July 1997.
 - b. Board of Director's Guide - Drafts of Guide to Condominium Living booklet and foldout are being reviewed by Commission staff; Fair Housing booklet-- Center has requested input from Norman Tam, Fair Housing Officer.
 - c. Five year education and research plan - outline submitted at May CRC meeting
 - d. Condominium seminars- availability of Condorama II tape of White Collar Crime Session has been delayed due to backlog of University of Hawaii studios.

- e. Program of Work and Budget FY98--Draft was distributed ; Commission staff to coordinate comments from commissioners and staff to Center prior to the July CRC meeting; Center to have final version for the July CRC meeting.
- 3. Condominium Project Registration, Public Reports, Sales to Owner-Occupants, and Limited-Equity Housing Cooperatives
 - a. **Recommend approval** to ratify issuance of effective dates for public reports for the month of May, 1997.
 - b. **Recommend deferral** of the contents of the public report for limited equity cooperatives, including Waipahu Towers Cooperative public report , to the July 1997 CRC meeting.
- 4. Program of Work
 - a. Rulemaking, Chapter 107 - **Recommend approval** of Proposed Draft Rules Version "Draft 1997-One" dated June 9, 1997 and the additions distributed at the June 17, 1997 meeting as amended by committee members in principle and substance for formal rulemaking subject to staff making stylistic and non substantive changes.
 - b. Registrations - AOA Ratification Reports
 - 1) Registrations Issued Effective Dates through June 5, 1997 Interim Registration - **Approve.**
 - 2) Registrations Issued Effective Dates through June 5, 1997 for 1997--1999 Registration - **Approve.**
 - 3) AOA Fidelity Bond -- Insurance Risk Purchasing Groups Considering the opinion from the Hawaii Insurance Division dated May 15, 1997 regarding the Hawaii Multi-Unit Owners Group, **recommend** that the REC require individual fidelity bond policies with separately issued policy numbers and separate individual coverage issued in the name of each AOA for each registering policyholder of the Hawaii Multi-Unit Owner's Group ; **recommend** that the Certification Statement of Insurance for each registering AOA of the Hawaii Multi-Unit Owner's Group comply with the recommendation; **defer approval** of the AOA Royal Aloha's request to be registered until a Certification Statement of Insurance is received referencing a separately stated policy number and that certifies that the fidelity bond complies with the bond requirements found in §514A-95.1; **recommend delegation** to staff the registration of AOA Royal Aloha upon receipt of the required certification statement.
 - c) Condominium Mediation --
 - 1. **Recommend approval** to renew the NJC and MSM agreements for the period 7/1/97--6/30/98 via renewal letter to NJC and MSM pursuant to identical terms and conditions as the current contracts, subject to availability of Condominium Management Education Funds.
 - 2. **Recommend** studying the feasibility of voluntarily converting to the use of standard AG contract forms after 6/30/98 ; feasibility includes researching the impact of the procurement code on all future mediation contracts.
 - d) Condominium Specialists Office for the Day -- **Recommend** deferral to the Education Meeting
 - e) Program of Work and Budget FY98 -- **Recommend approval** of draft 1-A subject to incorporating PVL comments where appropriate and feasible.

5. Next Meeting: Wednesday, July 9, 1997
1:30 p. m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Education Review Committee

Upon a motion by Commissioner Imamura, seconded by Commissioner Aki, it was voted on and unanimously carried to accept the amended report of the June 17, 1997 Education Review Committee meeting and to defer discussion of item 7. to later in the meeting, as follows:

1. May 7, 1997 meeting minutes - **Accept.**
2. HREREC Report
 - a. Broker Curriculum and Resources - Dr. Ordway orally presented a proposal accompanied by a written draft that provided several options for consideration to fulfill the broker prelicensing education requirement of 46 hours . **Recommend approval** of proposal for broker foundation topics of 30 hours and consumer protection course of 16 hours to be developed by Dr. Ordway subject to REC approval of course and the following deadlines: 8/13/97 draft to REB staff and committee members (at the 8/13/97 ERC meeting).
9/30/97 REB staff and committee members' response to Ordway
12/1/97 final draft
1/1/98 on-line
 - b. Continuing Education Core Course - Dr. Ordway will follow-up with Steve Gilbert on the progress as the REC comments were forwarded to HREREC at the end of April 1997. Recommend that Gilbert provide a report to the Senior RE Specialist before or at the REC meeting of June 26, 1997.
 - c. Examination - REC recommendations on the Laws and Rules Report forwarded to HREREC with a deadline of September 1, 1997 for completion and final draft should be submitted earlier for review. REB will submit the final product to ASI directly.
3. Continuing Education Administration
 - a. Administrative Issues - The CE privatization study by Legislative Reference Bureau is being conducted by Jean Mardfin, Researcher.
 - b. 1997-98 Ratification List of Continuing Education Providers, Instructors, and Courses - **Recommend approval.**
 - c. Application - RS204 "Building Wealth Through Residential Real Estate Investments" (Dave Beson, Instructor - **Recommend approval subject** to passage of S.B. No. 1114. S.B. 1114, S.D.1, H.D.1, C.D.1 has been signed into law as Act 289.
4. Licensing Examination - **Accept** ASI Test Development in Honolulu on July 10-11, 1997 with participants - Commissioners Lindemann, Aki, Ohama, and Ching (subject to schedule verification), Specialists Ikuma and Wong. All costs covered by ASI.
5. Neighbor Island Outreach - **Recommend approval** to hold 3 Committee meetings on October 7 or 8, 1997 at Wailea, Maui. Staff to work with HAR and DCCA for arrangements and approvals.

6. Real Estate Specialist of the Day and Licensing Examination Monitoring-
Accept the following schedule on Joint Specialist of the Day and examination monitoring:
07/25/97 Kauai
07/26/97 Kauai (monitoring)
08/21/97 Hilo
08/22/97 Kona
08/23/97 Kamuela (monitoring)
11/07/97 Maui
11/08/97 Maui (monitoring)
7. Program of Work and Budget, FY98 - **Recommend approval** of draft 1-A subject to incorporating PVL comments where appropriate and feasible.
8. ARELLO, REEA and Other Organizations Report - ARELLO Education Fund Report for March 1997 - **Accept**.
9. Next Meeting: **Wednesday, July 9, 1997, 10:30 a. m.**
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

The incoming Commissioners will not be sworn in before the next Committee meeting. The Committee assignments will be announced at the next Committee meeting.

The Commissioners were asked to turn in their Commission manuals for updating. Once the manuals are updated, they will be returned to the Commissioners for use as reference materials.

Laws and Rules Review Committee

Program of Work and Budget FY98 - The revised draft of the Program of Work for FY98 was distributed to the Commissioners for their review and approval. The SEO stated that where possible, PVL's and HAR's recommendations have been incorporated into the draft. The Commissioner and staff assignments may be subject to change once the Committees have been organized.

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Ching, it was voted on and unanimously carried to approve the Program of Work and Budget, FY1998, to defer the audit of the Real Estate Recovery Fund and REB staff is to study and review the feasibility of alternative ways to accomplish the goals of the Real Estate Recovery Fund audit.

Education Review Committee

Program of Work and Budget FY98 - The revised draft incorporated the comments received from PVL and HAR.

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Nomura, it was voted on and unanimously carried to approve the Program of Work and Budget FY98, adding a new program, Evaluation and Education System for CE and Prelicensing Instructors, a collaborative program with HREREC, HAR and HARES; fourth real estate *Bulletin* to become the Annual Report, and notice to be placed in the *Bulletin* and the Annual Report of the eventuality that the publications will be distributed via the Internet/WEBSITE; defer audit of the Real Estate Education Fund and staff to study and review the feasibility of alternative ways of

accomplishing the goals of the fund audit. **Condominium Review Committee**

Upon a motion by Commissioner Lee, seconded by Commissioner Evangelista, it was voted on and unanimously carried to approve the Program of Work and Budget FY98, with clarification that the HREREC Interactive Program is to include Commissioner Lee, to defer the audit of the Condominium Management Education Fund and staff is to study and review the feasibility of alternative ways to accomplish the goals of the Condominium Management Education Fund audit.

Executive Session:

Upon a motion by Commissioner Nomura, seconded by Commissioner Aki, it was voted on and unanimously carried to enter into executive session, pursuant to Chapter 92-5(a)(1), HRS, "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 Evangelista, it was voted on and unanimously carried to move out of executive session.

Licensing - Restoration
of Forfeited License:

William C. Hebert
David Kang
Shirley A. Rogers
Samuel K. Foster

Salesperson
Salesperson
Salesperson
Salesperson

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

Licensing -
Questionable
Applications:

Kekaulike Management Company, Ltd.

The applicant requested that the application be withdrawn from consideration.

Ren O. Grendahl

After a review of the information submitted by the applicant, Commissioner Lee moved to approve the real estate salesperson application of Ren O. Grendahl. Commissioner Aki seconded the motion. The motion was voted on and unanimously carried.

Richard D. Sargent

After a a review of the information submitted by the applicant, Commissioner Nomura moved to deny Richard D. Sargent's application for a real estate salesperson's license, unless within 60 days he submits proof of payment or a written payment plan for his outstanding IRS tax obligations. Commissioner Lee seconded the motion. The motion was voted on and carried. Commissioner Ching abstained from voting.

LynnCo Inc.

At the request of the applicant, consideration of this application was deferred to a later date.

Delegation to staff:

Upon a motion by Commissioner Aki, seconded by Commissioner Nomura, it was voted on and unanimously carried to delegate to staff to continue processing the

application upon receipt of documents verifying the change of the corporation name, which is not questionable under Section 467-9, HRS, and provided that there are no other changes in the applicant's circumstance.

Annette M. Perron

After a review of the information submitted by the applicant, Commissioner Imamura moved to approve the real estate broker application of Annette M. Perron. Commissioner Lee seconded the motion. The motion was voted on and unanimously carried.

Darryll Goodman

After a review of the information submitted by the applicant, Commissioner Lee moved to approve Darryll Goodman's request for an equivalency to the ten Hawaii written real estate transactions, of which three are closed listings and three are closed sales. Commissioner Ching seconded the motion. The motion was voted on and unanimously carried.

Hanalei Aloha Rental Management, Inc.

After a review of the information submitted by the applicant, Commissioner Aki moved to approve the request for a fidelity bond exemption for the 1997-98 condominium hotel operator registration, subject to acceptance by the applicant of conditions pertaining to the fidelity bond. Commissioner Nomura seconded the motion. The motion was voted on and unanimously carried.

Hana-Kai Maui Resort

After a review of the information submitted by the applicant, Commissioner Aki moved to approve the real estate broker exemption for the condominium hotel operator registration, subject to submission by the licensees who are trustees of general partners that they will not engage in the condominium hotel operation activity of the CHO broker exempt applicant, that they are engaged in real estate activity under their broker of record and applicant submits a statement appointing an employee or principal to have direct management and responsibility over the condominium hotel operations. Commissioner Nomura seconded the motion. Commissioners Kuriyama and Imamura abstained from voting. The motion was voted on and carried.

Hale Kai Resort Rentals, Inc.

After a review of the information submitted by the applicant, Commissioner Aki moved to approve the request for a real estate broker exemption for the condominium hotel operator registration, subject to receipt of true copies of the condominium project declaration and by-laws certified by the Bureau of Conveyances. Commissioner Nomura seconded the motion. The motion was voted on and carried.

Kaanapali Production Company, Inc., Coconuts Activity Center

After a review of the information submitted by the applicant, Commissioner Aki moved to approve the real estate corporation application of Kaanapali Production Company, Inc. dba Coconuts Activity Center. Commissioner Evangelista seconded the motion. The motion was voted on and unanimously carried.

M. Nalani Finsand

After a review of the information submitted by the applicant, Commissioner Nomura moved to deny M. Nalani Finsand's application for a real estate salesperson's license, unless within 60 days she submits proof of payment or a written payment plan for her outstanding IRS tax obligations. Commissioner Lee seconded the motion. The motion was voted on and carried. Commissioner Ching abstained from voting.

Christopher P. O'Connor

After a review of the information submitted by the applicant, Commissioner Ching moved to approve the real estate salesperson application of Christopher P. O'Connor. Commissioner Aki seconded the motion.

Commissioner Kuriyama stated that if the Commission were to approve licensing applications without the submission of the necessary documents within the 90 days, staff should be instructed to delete the requirements from the application form as it is not considered necessary information for the application.

The Commissioners were reminded that the people who staff the exam sites are not employees of the Commission and that those who staff the neighbor island exam do so only once or twice a month.

Section 99-19(3), HAR, requires that the school completion certificate be submitted with the application. There are only two supporting documents which have been deemed acceptable by the Commission as having met the educational requirements. The first is the school completion certificate and the second is the educational waiver.

Further discussion on this was deferred to later in the meeting.

Recess:

The Chair recessed the meeting at 10:29 a.m.

Reconvene:

The Chair reconvened the meeting at 10:49 a.m.

The Chair thanked the Commissioners for the surprise coffee hour and the leis. The Chair read aloud the thank you note from June Kamioka, thanking the Commission for the Certificate of Appreciation and the lei.

Chapter 91, HRS,
Adjudicatory Matters:

The Chair called for a recess from the meeting at 10:50 a.m. to discuss and deliberate on the following adjudicatory matters, pursuant to Chapter 91, HRS:

Nam Ja Purvis aka Nancy Kang Purvis, REC 91-93

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

Suzanne E. Henry and Philip C. Henry dba Kihei Surf & Sun Rentals, REC 95-129-L

Upon a motion by Commissioner Imamura, seconded by Commissioner Ching, 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.

Fred M. Uedoi dba Komo Mai Asset Management, REC 95-30-L

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

Rowena B. Cobb dba Cobb Realty and Jean E. Sato, REC 95-30-L

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

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

Commissioner Ching returned to the meeting.

Lance S. Kawahara, REC-LIC-96-1

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

David W. Hardy, REC-LIC-95-8

Upon a motion by Commissioner Lee, seconded by Commissioner Imamura, it was voted on and unanimously carried to accept the Hearings Officer's Findings of Fact, Conclusions of Law, and Recommended Order Regarding Respondent's Motion to Dismiss Petitioner's Request for Hearing.

The Association of Owners of Kukui Plaza, By and Through Its Board of Directors, REC-DR-96-1

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

Following the Commission's review, deliberation and decision in this matter, pursuant to Chapter 91, HRS, the Chair announced that the Commission was reconvening its scheduled meeting at 11:10 a.m., pursuant to Chapter 92, HRS.

Christopher P. O'Connor

The Senior Real Estate Specialist stated that the law states that the documents bears directly on the issuance of the license. Section 99-19(3), HAR, does not allow any discretion as to whether or not it is required.

The Deputy Attorney General stated that the Intermediate Court of Appeals ruled that the Commission must exercise their discretion irregardless of the "shall" rule. The Court would not look favorably on a denial because he submitted an incomplete application on the 90th day. Mr. O'Connor eventually found his certificate and there are other safeguards to ensure that he met the licensing requirements.

The Deputy Attorney General clarified that the Commission has to exercise discretion according to the "shall" rule. The reviewing court looks at what an agency considers. The Senior Real Estate Specialist stated that if the same principals were extended to whether or not a certificate was required, the

Licensing -
Questionable
Applications:

Commission would be making an exception to the rules.

Commissioner Kuriyama withdrew his comment on amending the application. He stated that he thinks that the Deputy Attorney General is right where the Commission has the right to exercise its discretion.

The Chair asked if those monitoring the examinations are looking to see whether or not the applicant has met the qualifications.

The Commission has a contract with the testing service to administer the examination. However, the examination company hires its own employees to take care of administering the exam.

Commissioner Nomura stated that the rules are made to be consistent. If the Commission does not like the way that things are done, the rules need to be amended. Otherwise, don't have any rules.

Commissioner Evangelista asked if the circumstances really warranted bending the rules.

The Commissioners were informed that the testing service has, on occasion, allowed people to take the examination with incorrect documentation. One applicant was allowed to sit for the real estate broker's examination with only an education certificate. The Commission has denied requests for an extension or a waiver of the 90 day deadline in cases where the applicant took the exam and had an illness or death in the family in which they were unable to submit their application within the 90 days. The Commission has, in the past, not considered incomplete applications.

The Senior Real Estate Specialist informed the Commission that he had requested that the applicant provide further information regarding the emergency, but he declined.

Commissioner Ching withdrew his motion. Commissioner Aki withdrew his second. The motion was withdrawn from consideration.

After a review of the information submitted by the applicant, Commissioner Lee moved to deny Christopher P. O'Connor's application for a real estate salesperson's license, as his complete real estate license application was not received within the 90 days after the date of the examination. Commissioner Imamura seconded the motion. The motion was voted on and unanimously carried.

The Commission will reevaluate the process to see if any changes needs to be made.

Licensing - Restoration
of Forfeited Licenses:

Forfeited Under One (1) Year

Delegation to staff:

Upon a motion by Commissioner Ching, seconded by Commissioner Lee, it was voted on and unanimously carried that upon the advice of the Deputy Attorney General and in consideration of the property interest a forfeited licensee may have, and provided applicant has submitted a complete application meeting all ministerial requirements under the laws and rules, including submitting the completed application on or before December 31 of the odd year immediately following license expiration, delegate to staff to review application and continue processing, including obtaining documents and information as applicable to "YES"

answers. To provide the applicant with due process, these matters are to be referred to RICO for review and action.

Next Meeting:

Thursday, July 24, 1997
9:00 a.m.
Kapuaiwa 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 11:32 a.m.

Reviewed and approved by:

/s/ Christine Rutkowski
Christine Rutkowski, Executive Officer

July 24, 1997
Date