

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, September 25, 1998

Time: 9:00 a.m.

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

Present Alvin Imamura, Chair
Nora Nomura, Vice Chair
Charles Aki, Member
Michael Ching, Member
Mitchell Imanaka, Member
Helen Lindemann, Member
Iris Okawa, Member

Calvin Kimura, Supervising Executive Officer
Christine Rutkowski, Executive Officer
Pamela Garrison, Senior Real Estate Specialist
Lee Ann Teshima, Real Estate Specialist
Russell Wong, Real Estate Specialist
Cynthia Yee, Senior Condominium Specialist
Shari Wong, Deputy Attorney General
Irene Kotaka, Secretary

Chi Chi Trinidad
Russ Trinidad
John G. Gates
Edward Brinkman
Clarence Willis

Excused: Alfredo Evangelista, Member
John Ohama, Member

Call to Order: The Chair called the meeting to order at 9:02 a.m., at which time quorum was established.

Chair's Report: No report was presented.

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

Additional Distribution

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

5. Restoration of Forfeited Licenses
Over One Year, Under Two Years - Broker
Edward Brinkman
6. Questionable Applications
 - g. Trinidad Enterprises Inc.
 - j. Liu and Young Incorporated
 - k. James E. Troughton, Maui Dreams Come True

- n. John G. Gates
- 9. Committee Reports
 - a. Laws and Rules Review Committee
 - b. Education Review Committee
 - c. Condominium Review Committee

The Executive Officer stated that the real estate corporation application of Liu and Young Incorporated should be removed from the agenda under Questionable Applications and should be placed under the Ratification section of the agenda based on additional documents submitted by the applicant and approved as a real estate corporation, Lui and Associates, Inc., effective September 23, 1998.

The Commissioners were asked if they would be present at the October Committee and Commission meetings in order to determine if there would be quorum problems. Commissioners Evangelista and Nomura would not be present at the October 14, 1998 Committee meetings. The Chair, Commissioners Evangelista and Lindemann would not be present at the October 29, 1998 Real Estate Commission meeting.

The Chair recused himself from the meeting. The Vice Chair presided over the meeting.

Upon a motion by Commissioner Ching, seconded by Commissioner Imanaka, it was voted on and carried to congratulate Commissioner Lindemann for her appointment as the President of the Hawaii Association of REALTORS for 1999 and to congratulate the Chair for receiving the REALTOR of the Year Award from the Hawaii Association of REALTORS. The Chair abstained from voting.

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

Licensing and
 Registration -
 Ratification:

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

<u>Brokers - Corporations and Partnerships</u>	<u>Effective Date</u>
Active Realty, Inc.	07/20/98
Louise R. Hewett, PB	
International Vacation Ownership Corporation	09/01/98
Lui and Associates, Inc.	09/23/98
Russell Lui, PB	
<u>Brokers - Limited Liability Companies</u>	<u>Effective Date</u>
how2hawaii realty LLC	08/31/98
James B. Lu-Piba, PB	
<u>Brokers - Sole Proprietor</u>	<u>Effective Date</u>
Mei Ling Ng, Mei Ling Ng Properties	08/19/98
Kenneth K. Hirai, Koloa Realty	09/02/98
Tracy Clare Kalama, Millennium Realty	08/27/98
<u>Tradenname</u>	<u>Effective Date</u>
Robert M. Pennington, Bob Pennington Realty	08/17/98
Bruce E. Sutherland, Island Resort Rentals	09/04/98
<u>Corporation Name</u>	<u>Effective Date</u>
Sunterra Pacific, Inc. (fka Vacation Internationale, Ltd.)	08/20/98
<u>Education Waiver Certificate</u>	<u>Expiration Date</u>
Kaysie A. Mendonca	08/24/99
Michael Allen Lanfear	08/24/99
Robert T. Edison	08/27/99

Coletta A. Edison	08/27/99
Alain R. Dussaud	08/27/99
Fred Lewis Pack, Jr.	08/27/99
Judy A. Kreutz	08/28/99
Edwin Upshur Bonneau	09/01/99

<u>Real Estate Broker Experience Certificate</u>	<u>Expiration Date</u>
John Mendivil	08/26/99
George T. Garcia	08/26/99
Tony L. Taylor	08/26/99
Junko Yamada	08/27/99
Joan Gilbert	08/27/99
Phillip J. Keipper	08/31/99
Jenny L. Brady	09/09/99
Byron J. Yap	09/16/99

<u>Real Estate Broker (upgrade)</u>	<u>Effective Date</u>
Myron Freeman	08/07/98
Richard N. Hobson, Jr.	08/24/98
Ronie H. Lando-Brown	08/25/98
Sean K. Shinshiro	08/17/98
Paula K. Orr	08/27/98
Joel D. Johnson	08/18/98
Tracy Clare Kalama	08/27/98

Restoration of Forfeited Salesperson's License Date
 Real estate salesperson's license will be restored upon successfully passing one of the two Commission approved courses within six months.

Karen L. Chatenever	02/28/99
Ellen G. Kawata	02/28/99

Restoration of Forfeited Broker's License Date
 Real estate broker's license will be restored upon successfully passing one of the two Commission approved courses within six months.

Stewart Sylvester Stabley	02/28/99
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<u>Condominium Hotel Operator</u>	<u>Effective Date</u>
Maui Kai Rental Program	08/24/98

<u>Condominium Managing Agent</u>	<u>Effective Date</u>
Coldwell Banker Commercial Pacific Properties, Ltd.	09/02/98

Licensing - Restoration of Forfeited Licenses:

Edward W. Brinkman
 Edward W. Brinkman was present to answer any questions the Commissioners may have had regarding the restoration of his real estate broker's license. Mr. Brinkman distributed a summary of his education and real estate activities prior to the forfeiture of his license and since the forfeiture of his license.

Mr. Brinkman stated that the information that he had submitted with his application had contained all of the certificates for the courses that he had attended with one exception, the Florida mortgage broker licensing course. He stated that during 1995, he had attended three CCIM courses. The courses are qualified for receiving continuing education credits in 45 or 46 States. Mr. Brinkman stated that by the time that he found out that the courses were not equivalent, his wife was giving birth. He also stated that real estate is his sole

source of income. He has been in Hawaii since the beginning of September and has been unable to work in the only source of income that he has. He would appreciate the restoring of his license in a timely manner.

Mr. Brinkman stated that he was given the option of taking the real estate broker's preclicensing course again in order to restore his license. However, the educational waiver application shows that a Florida license is considered sufficient education to be granted an educational waiver. Mr. Brinkman stated that he had submitted a certificate that he took the Florida preclicensing course. He also stated that for him to take another course would put him in over 120 hours of education this year. He strongly supports education. He has been working with a Real Estate Specialist to make sure that everything is done properly. He does not have any complaints about that.

Mr. Brinkman stated that the application does state that he may be required to take additional education, but it does not state that it is mandatory.

Mr. Brinkman passed his real estate broker's examination in 1998 in Florida. The real estate broker's preclicensing course was a 72 hour course, most of it dealing with Federal or State laws, similar to Hawaii's. He still needs to take an additional ten hours of continuing education within the next few months for the next biennium. If he had to take the real estate broker's course or another course, it would mean too much education for him. Mr. Brinkman stated that he needs to work instead of sit in class.

Mr. Brinkman was asked if he completed the Law Update and Ethics 1997-98 course for the upcoming biennium. He stated that he took three electives and that he intends to take the Law Update and Ethics 1997-98.

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

Licensing -
Questionable
Applications:

Clarence Paia Willis

Clarence Paia Willis was present to request that the Commission approve his application for a real estate salesperson's license. Mr. Willis was asked if he wished to have his application considered in executive session. He declined the offer.

Mr. Willis was asked if he had cleared his obligation with the Hawaii Department of Taxation. Mr. Willis answered in the affirmative and stated that he also has a payment plan with the Internal Revenue Service.

Commissioner Aki moved to take this matter under advisement. Commissioner Imanaka seconded the matter.

The Vice Chair asked Mr. Willis if he had paid the \$50 to the Bureau of Conveyances. Mr. Willis stated that the payment of the \$50 to the Bureau of Conveyances is a personal benefit to himself. He has not paid the \$50 fee yet. He stated that he had just received notice that he could pay the fee to release his name from the tax lien approximately one month ago, but he has not got around to it as yet.

The motion was voted on and it was unanimously carried to take this matter under advisement.

Trinidad Enterprises Inc.

Chi Chi Trinidad and Russ Trinidad were present to answer any questions the Commissioners may have regarding their application for a real estate corporation, Trinidad Enterprises Inc. They were asked if they wished to have their application discussed in executive session. They declined the offer.

Ms. Trinidad stated that they had started under the name of the corporation because the corporation was already set up.

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

John G. Gates

John G. Gates was present to request the Commission's reconsideration of its previous decision. Mr. Gates was asked if he wished to have his application considered in executive session. Mr. Gates declined the offer.

Mr. Gates stated that he was pleased with the Commission's previous decision because although his license application was denied, it did give him an option. After receiving notification of the Commission's decision, he immediately went to the Wailuku IRS office and spoke with Clark Rogers. He was told that they could write up the offer and compromise immediately. Mr. Clark later came back and told him that they would not be able to establish a payment plan. Mr. Gates told Mr. Clark that he could come up with a couple of hundreds of dollars a month, but he was told that they could not do it. Mr. Gates then asked for something in writing. He was told that he is in an uncollectible status at this time because he does not have income. Mr. Gates stated that he set up a payment plan with the State of California. Mr. Gates stated that he is asking the Commission to reconsider its previous decision and to allow him to have a real estate salesperson's license so that he can set up an interim payment plan while he is waiting for his offer and compromise to be accepted.

Mr. Gates was asked to explain the meaning of "uncollectible". Mr. Gates stated that his level of income does not allow him to make payments without hardship.

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

Committee Reports:

Laws and Rules Review Committee

Upon a motion by Commissioner Ching, seconded by Commissioner Aki, it was voted on and unanimously carried to accept the report of the September 18, 1998, Laws and Rules Review Committee meeting, as follows:

1. Accept the minutes of the August 12, 1998 meeting.
2. Special Issues
Notification to Principal Broker on Licensing Status of Associating Salespersons - Staff to respond to Mr. Brian R. Thomas regarding his concerns.
3. Next meeting: Wednesday, October 14, 1998
9:00 a.m.
Kapuaiwa Room
1010 Richards Street, Second Floor
Honolulu, Hawaii

Education Review Committee

Upon a motion by Commissioner Aki, seconded by Commissioner Imanaka, it was voted on and unanimously carried to accept the report of the September 18, 1998, Education Review Committee meeting, as amended:

1. Minutes of July 8 and August 12, 1998 Meetings - Accept
2. Continuing Education Administration, Curriculum, Courses, Providers and Instructors - Applications

- a. Continuing Education Certification for Nationally Certified Courses/Instructors - "NAR Convention Elective I" and "NAR Convention Elective II" - Recommend Approval subject to the following:
 - 1) Completion of any two NAR convention courses (6 hours), except the course "The Appraiser as an Expert Witness," to qualify for one Hawaii continuing education elective credit;
 - 2) That the Hawaii Association of REALTORS (HAR) is a currently registered continuing education provider with the Commission;
 - 3) That the course(s) be taught by nationally certified instructor(s);
 - 4) That the provider can ensure classroom compliance by providing a certified statement, pursuant to Section 16-99-123, Hawaii Administrative Rules, that the classroom conforms to the zoning, building, electrical, plumbing and fire codes of the county in which the facility is located and to State rules as may be applicable to the facility;
 - 5) That the provider's bond will cover the course being offered out-of-state;
 - 6) That the provider submit the course offering(s) at least 14 days before the proposed commencement date, pursuant to Section 16-99-102(a), Hawaii Administrative Rules; and
 - 7) That the course(s) be monitored pursuant to Section 16-99-119, Hawaii Administrative Rules.
 - b. Instructor - Margaret M. Moore, Course categories: Contracts and Property Management - Recommend Approval
 - c. Course: "Disclosure? Disclosure? Disclosure!" (Provider: Honolulu Board of REALTORS) - Recommend approval subject to course content regarding Megan's Law conforming to the Megan's Law content contained within the continuing education course, Real Estate Laws Update and Ethics 97/98.
 - d. Instructor: Oliver E. Frasca, Esq., Course: "Disclosure? Disclosure? Disclosure!" - Recommend Approval subject to his taking the next Commission approved or sponsored IDW.
3. Next Meeting: Wednesday, October 14, 1998
10:00 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
250 South King Street
Honolulu, Hawaii

Condominium Review Committee

Upon a motion by Commissioner Imanaka, seconded by Commissioner Lindemann, it was voted on and unanimously carried to accept the report of the September 18, 1998 Condominium Review Committee meeting, as follows:

1. **Chair's Report** -- Recommend the issuance of a Real Estate Commission Certificate of Appreciation to Camille Chun-Hoon for her contributions to condominium project registration and condominium governance and management.
2. **Minutes of August 12, 1998** -- Accept minutes.
3. **HREREC Report** -- Hawaii Condominium Bulletin - FY99 Vol. 7, Number 1, (Fall 1998) is scheduled for layout during September with printing and distribution to follow.
4. **AOAO Registrations 1997-1999 Registration (August 1998)** -- Recommend approval for ratification.
5. **CPR Registration, Public Reports, Extensions Issued** -- Recommend approval to ratify issuance of effective dates for public reports and extensions for the month of August 1998.

6. Next Meeting: Wednesday, **October 14, 1998**
1:30 p.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Executive Officer's Report:

Minutes of Previous Meetings

Upon a motion by Commissioner Aki, seconded by Commissioner Nomura, it was voted on and unanimously carried to approve the minutes of the August 22, 1998 Real Estate Commission meeting as circulated.

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 Section 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 Imanaka, seconded by Commissioner Nomura, it was voted on and unanimously carried to move out of executive session.

Chapter 91, HRS, Adjudicatory Matters:

The Chair called a recess from the meeting at 9:53 a.m., to discuss and deliberate on the following adjudicatory matters, pursuant to Chapter 91, HRS:

In the Matter of the Real Estate Broker's License of Neil Petagno, Inc., REC 97-116-L

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

In the Matter of the Real Estate Broker's Licenses of Ronald A. Kawahara and Destination Maui, Inc. dba Ronald A. Kawahara Realty; REC 95-125-L and REC 96-50-L

Upon a motion by Commissioner Nomura, seconded by Commissioner Lindemann, 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.

In the Circuit Court of the First Circuit, State of Hawaii, Christopher C. Harder, Appellant vs. Kathryn S. Matayoshi, in her official capacity as Director of the Department of Commerce and Consumer Affairs, State of Hawaii, Appellee.

A copy of the Findings of Fact, Conclusions of Law and Order Affirming the Real Estate Commission's Final Order, Dated September 29, 1997 and the Judgment Affirming the Real Estate Commission's Final Order, Dated September 29, 1997, was distributed to the Commissioners for their information.

The Commission thanked the Special Deputy Attorney General for her assistance in defending the Commission's decision.

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 10:02 a.m., pursuant to Chapter 92, HRS.

Recess:

The Chair recessed the meeting at 10:02 a.m.

Reconvene:

The Chair reconvened the meeting at 10:15 a.m.

Executive Session:

Upon a motion by Commissioner Nomura, seconded by Commissioner Imanaka, it was voted on and unanimously carried to enter into executive session, pursuant to Section 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 Ching, seconded by Commissioner Aki, it was voted on and unanimously carried to move out of executive session.

Restoration of Forfeited License:

Ernesto C. Asuncion
Diane E. Campbell
Mark Reid Hollon
Michelle Lau
Valentine U. Marciel

Salesperson
Salesperson
Salesperson
Salesperson

After a review of the information submitted by the applicants, Commissioner Nomura moved that restoration be approved upon submitting evidence of successfully completing one of the two options of Commission-approved real estate courses. Commissioner Ching seconded the motion. The motion was voted on and unanimously carried.

Edward W. Brinkman

Broker

After a review of the information and oral testimony presented by the applicant, Commissioner Lindemann moved that restoration be approved upon submitting evidence of successfully completing one of two options of Commission-approved courses or three additional Commission-approved continuing education courses which are not to be used for the December 31, 1998 renewal period. Commissioner Aki seconded the motion. The motion was voted on and unanimously carried.

James M. Merrell

After a review of the information submitted by the applicant, Commissioner Nomura moved to approve the real estate broker's license of James M. Merrell. Commissioner Aki seconded the motion. The motion was voted on and unanimously carried.

Denise A. Markoff

After a review of the information submitted by the applicant, Commissioner Nomura moved to deny Denise A. Markoff's application for a real estate salesperson's license, based on §467-8, HAR, and §§436-19B(1), (8), (12) and (13), HRS. Commissioner Lindemann seconded the motion. The motion was voted on and unanimously carried.

Ryka Ramos

After a review of the information submitted by the applicant, Commissioner Aki moved to approve the real estate salesperson's license of Ryka Ramos. Commissioner Ching seconded the motion. The motion was voted on and unanimously carried.

Theresa K. Iovinelli

After a review of the information presented by the applicant, Commissioner Lindemann moved to approve the real estate salesperson's license of Theresa K. Iovinelli. Commissioner Ching seconded the motion. The motion was voted on and unanimously carried.

Clarence Paia Willis

After a review of the information presented by the applicant, Commissioner Imanaka moved to approve the real estate salesperson's license of Clarence Paia Willis.

Commissioner Aki seconded the motion. The motion was voted on and unanimously carried.

Kaanapali Alii Realty, LLC

After a review of the information submitted by the applicant, Commissioner Ching moved to approve the Limited Liability Company application of Kaanapali Alii Realty, LLC. Commissioner Lindemann seconded the motion. The motion was voted on and unanimously carried.

Trinidad Enterprises Inc.

After a review of the information presented by the applicant, Commissioner Aki moved to approve the real estate corporation application of Trinidad Enterprises Inc. Commissioner Ching seconded the motion. The motion was voted on and unanimously carried.

Lau and Lau Properties, Inc.

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

Insignia/ESG Hotel Partners, Inc.

After a review of the information submitted by the applicant, Commissioner Okawa moved to approve the real estate corporation application of Insignia/ESG Hotel Partners, Inc. Commissioner Imanaka seconded the motion. The motion was voted on and unanimously carried.

James E. Troughton, Maui Dreams Come True

After a review of the information submitted by the applicant, Commissioner Ching moved to approve the Condominium Hotel Operator registration of James E. Troughton, Maui Dreams Come True. Commissioner Aki seconded the motion. The motion was voted on and unanimously carried.

Thomas J. Ward

The Chair recused himself from the meeting. The Vice Chair presided over the meeting.

After a review of the information submitted by the applicant, Commissioner Lindemann moved to approve Thomas J. Ward's request for an equivalency to the ten (10) Hawaii written real estate transactions, of which three are sales contracts or commercial or industrial leases closed escrow and three are listing contracts or commercial or industrial leases closed escrow. Commissioner Imanaka seconded the motion. The motion was voted on and unanimously carried.

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

Kathleen M. O. Howe

After a review of the information submitted by the applicant, Commissioner Ching moved to deny Kathleen M. O. Howe's application for a real estate broker's experience certificate pursuant to §16-99-38(a)(2)(A), HAR. The Commission recognized a total of 18 months equivalent education or experience obtained out of the two-year experience requirement of HAR §16-99-38(a)(1), based upon her GRI designation and full-time experience as a full-time licensed real estate broker in Arizona. The Commission found insufficient information

to determine if Ms. Howe fulfilled the requirement of HAR §16-99-38(a)(1), in that her application was incomplete. The Commission also denied Ms. Howe's request for an equivalency to the ten (10) Hawaii transactions required by HAR §16-99-38(a)(2)(A). The Commission determined that Ms. Howe's transactions in Arizona are not equivalent to the requirement of HAR §16-99-38(a)(2). Commissioner Aki seconded the motion. The motion was voted on and unanimously carried.

John G. Gates

Upon a motion by Commissioner Ching, seconded by Commissioner Aki, it was voted on and unanimously carried to grant John G. Gates' request for reconsideration.

After a review of the information presented by the applicant, Commissioner Ching moved to approve John G. Gates' real estate salesperson's license, based upon the additional documents submitted by Mr. Gates. Commissioner Aki seconded the motion. The motion was voted on and unanimously carried.

Next Meeting:

Thursday, October 29, 1998
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 10:40 a.m.

Reviewed and approved by:



Christine Rutkowski
Executive Officer

October 29, 1998

Date

- [X] Approved as circulated.
- [] Approved with corrections; see minutes of _____ meeting.