

REAL ESTATE COMMISSION
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii
www.state.hi.us/hirec

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, December 13, 2002

Time: 9:00 a.m.

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

Present: John Ohama, Chair
Mitchell Imanaka, Vice Chair
Louis Abrams, Member
Marshall Chinen, Member (Late Arrival)
Patricia Choi, Member
Kathleen Kagawa, Ph.D., Member
Iris Okawa, Member
Peter Rice, Member (Late Arrival)
Vern Yamanaka, Member

Calvin Kimura, Supervising Executive Officer
Alan Taniguchi, Executive Officer
Diane Choy Fujimura, Senior Real Estate Specialist
Cynthia Yee, Senior Condominium Specialist
Lorene Arata, Real Estate Specialist
Russell Wong, Real Estate Specialist
David Grupen, Condominium Specialist
Cheryl Leong, Condominium Specialist
Shari Wong, Deputy Attorney General
Irene Kotaka, Secretary

Nicki Ann Thompson, Hawaii Association of REALTORS
Charles Aki
Michael Ching
Natalie Hiu, Hualalai Realty, LLC

Call to Order: The Chair called the meeting to order at 9:07 a.m., at which time quorum was established.

Chair's Report: The Chair wished everyone present, "Happy Holidays!"

Executive Officer's
Report:

**Announcements, Introductions, Correspondence and Additional
Distribution**

Addition to the Agenda

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

4. Committee Reports
 - d. Administration of Examination

Additional Distribution

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

4. Committee Reports
 - a. Laws and Rules Review Committee
 - b. Education Review Committee
 - c. Condominium Review Committee
6. Licensing – Applications
 - b. Hualalai Realty, LLC

Minutes of Previous Meetings

Upon a motion by Commissioner Abrams, seconded by Commissioner Choi, it was voted on and unanimously carried to approve the minutes of the November 22, 2002 Real Estate Commission meeting as circulated.

Committee
Reports:

Laws and Rules Review Committee

Upon a motion by Commissioner Okawa, seconded by Commissioner Abrams, it was voted on and unanimously carried to accept the report of the December 12, 2002 Laws and Rules Review Committee meeting as follows:

1. Minutes of November 13, 2002 – **Accept.**
2. Program of Work, FY03
 - a. Real Estate Recovery Fund – **Recommend acceptance** of the Real Estate Recovery Fund counsel's proposed amendments as set forth in items 2, 3 and 4, and amending item 1 to limit the total liability per transaction to \$50,000 aggregate for the individual licensee and the corporate broker. **Recommend** that the Commission develop a consumer education program to heighten the consumers' awareness of the benefits of using a licensed individual. **Further recommend** that the Recovery Fund counsel draft the proposed legislation

and that the Commission submit proposed legislation to the 2003 Legislature.

- b. Neighbor Island Outreach – The next neighbor island outreach is scheduled to be held on the island of Maui, on Friday, January 10, 2003, in the Conference Rooms of the REALTORS Association of Maui, located at 441 Ala Makani Place, Kahului, Maui.

The meetings will be held as follows:

9:30 a.m.	Condominium Review Committee
10:30 a.m.	Laws and Rules Review Committee
11:00 a.m.	Education Review Committee

3. ARELLO, Other Organizations and Jurisdictions – Colorado Real Estate Commission License Recognition Request – **Recommend** resubmission of the 2002 proposed legislation relating to reciprocity and license recognition to the 2003 Legislature. REB staff to draft proposed legislation and respond to the Colorado Real Estate Commission with the standard statement.
4. Next Meeting: **Friday**, January 10, 2003
10:30 a.m.
Conference Room
REALTORS Association of Maui
441 Ala Makani Place
Kahului, Maui

Education Review Committee

Upon a motion by Commissioner Choi, seconded by Commissioner Kagawa, it was voted on and unanimously carried to accept the report of the December 12, 2002 Education Review Committee meeting as follows:

1. Minutes of November 13, 2002 – **Accept**.
2. Continuing Education Administration, Curriculum, Courses, Providers, and Instructors – Applications
 - a) 2003 – 2004 Continuing Education Providers and Course Ratification List – **Recommend approval** of the following providers and courses:

<u>Registration/Certification Provider (s)</u>	<u>Effective Date</u>
Seiler School of Real Estate (Administrator: Ricardo D. Seiler)	January 1, 2003
Brian R. Thomas dba EdVenture (Administrator: Brian R. Thomas)	January 1, 2003

"Discover, Disclosure, Damage, Defendants" January 1, 2003
"Professional Standards Training-Ethics"
(Oliver E. Frasca/REALTORS® Association of Maui, Inc.)
"Basic Real Estate Investment Analysis" January 1, 2003
"Fair Housing: Introduction to Federal and State Laws and Regulations"
"Timeshare Real Estate-I-Introduction"
(Lynn W. Carlson)
"DROA" January 1, 2003
"Purchase, Ownership & Management of Condominiums"
(Kenneth D.H. Chong)
"Avoid Litigation-How to Detect Red Flags" January 1, 2003
"Federal Laws that Affect Licensee"
"Foreclosure and the Role of the Commissioner in Hawaii"
"Hawaii Landlord-Tenant Code"
"Homeowner's Tax Strategies"
"Hot Real Estate Issues 2001-2002"
"How to List and Sell Business Opportunities"
"Pitfalls in DROA and Addenda"
"Pitfalls in Managing Residential Properties"
"Residential and Commercial Evictions"
(Eddie Flores, Jr. /Eddie Flores Real Estate Continuing Education)
"Fair Housing: Introduction to Federal and State Laws and Regulations" January 1, 2003
"Introduction to Broker Management"
(Jay J. Spadinger/Akahi Real Estate Network, LLC)

- b) Course – "Hawaii Condominium Principles",
Author/Owner: Thomas J. Douma, Provider: Thomas J. Douma, Course Category: Real Estate Law, and Risk Management, Clock Hours: 3 – **Recommend approval**
- c) Continuing Education Core Course – Draft outline of 2003-2004 Real Estate Update and Ethics portion of core course – **Recommend** drafting a request for proposal (RFP) to create the 2003 – 2004 four (4) hour core course, subject to budgetary constraints. Prefer contractor to have a legal background, course to include an "ethics" component, and Commissioners Yamanaka and Ohama are designated lead Commissioners for the development of the core course, RFP and review of submissions.
- d) Core Course Request– Brian Thomas –Deferred from November 13, 2002 meeting – **Recommend approval** subject to conditions that providers shall provide written disclosure to each student regarding completion of both

sections of core course in order to receive course certificate and credit, that it is the sole responsibility of the provider to maintain records of students completing both sections of core course, that provider may present both sections during the second year of the biennium, that this split format is a pilot project subject to student evaluations handled confidentially and Commission monitoring.

3. Prelicensing Education Administration, Curriculum, Schools, Instructors, and Equivalency

- a) 2003-2004 Prelicensing Education Schools and Instructors Ratification List – **Recommend approval** of the following schools and instructors:

<u>Registration/Certification</u>	<u>Effective Date</u>
School(s)	
Vitousek Real Estate School (Principal: Paige Vitousek)	January 1, 2003
Seiler School of Real Estate (Principal: Ricardo D. Seiler)	January 1, 2003
Coldwell Banker Pacific Properties Real Estate School (Principal: Barbara Dew)	January 1, 2003
Reef, Inc. dba Hawaii Institute of Real Estate (Principal: Janice K. Lind)	January 1, 2003
Akahi Real Estate Network, LLC (Principal: Jay J. Spadinger)	January 1, 2003
University of Hawaii at Manoa, Small Business Management Program- Outreach College (Principal: Dr. Pamela Fujita-Starck)	January 1, 2003
Fahrni School of Real Estate (Principal: Helen Kate Fahrni)	January 1, 2003
Instructor(s)	
Ricardo D. Seiler (Salesperson/Broker Curriculum)	January 1, 2003
Carol Mae A. Ball (Salesperson/Broker Curriculum)	January 1, 2003
Wayne Richardson, III (Salesperson/Broker Curriculum)	January 1, 2003
Brian R. Thomas (Salesperson/Broker Curriculum)	January 1, 2003
Barbara Dew (Salesperson/Broker Curriculum)	January 1, 2003
C. Scott Bradley (Agency Guest Lecturer Salesperson/Broker)	January 1, 2003

Christine T. O'Brien (Ethics & Economics Guest Lecturer Salesperson/Broker)	January 1, 2003
Herbert N. Conley (Economics Guest Lecturer Salesperson/Broker)	January 1, 2003
Iris H. Toguchi (Finance Mortgage Guest Lecturer Salesperson/Broker)	January 1, 2003
Jay J. Spadinger (Salesperson/Broker Curriculum)	January 1, 2003
Donald G. Baxter (Substitute Salesperson/Broker Curriculum)	January 1, 2003
John F. Stapleton (Salesperson/Broker Curriculum)	January 1, 2003
Helen Kate Fahrni (Salesperson Curriculum)	January 1, 2003

- b) Prelicense School – Hudson Real Estate School, Principal – Jon Hudson, effective date January 1, 2003 – deferred from November 13, 2002 meeting and requested appearance of Mr. Hudson at next meeting - **Recommend approval.**
- c) Ralph Foulger Request – **Recommend approval** of conditional prelicense instructor renewal subject to taking IDW currently scheduled for February 2003, sponsored by the Hawaii Association of REALTORS® or be on inactive status.

- 4. Next meeting: Friday, January 10, 2003
11:00 a.m.
Conference Room
REALTORS® Association of Maui
441 Ala Makani Place
Kahului, Maui

Condominium Review Committee

Upon a motion by Commissioner Rice, seconded by Commissioner Choi, it was voted on and unanimously carried to accept the report of the December 12, 2002 Condominium Review Committee meeting as follows:

- 1. Minutes of November 13, 2002 Meeting – **Accept**
- 2. Condominium Governance and Management—AOAO Registrations – 2001-2003 Biennium Registration, November 2002 – **Recommend approval** to ratify effective dates for AOAO registrations received for the 2001-2003 biennium through November 30, 2002.

3. CPR Registration, Developer's Public Reports
 - a. November 2002 – **Recommend approval** to ratify issuance of effective dates of the developer's public reports and extensions issued for the month of November 2002.
 - b. Schuler Homes, Inc. – Kalamaku'u, CPR #4628 and Schuler Homes, Inc. – Halemalu at Puhi, CPR #4735 – **Recommend approval** to require the developer to do the following for both projects:
 - 1) Stop sales until such time Commission issues effective dates for developer's supplementary public reports; Commission's usual stop sales letter to be issued.
 - 2) Submit a supplementary developer's public report to update the contingent final developer's public report indicating the withdrawal of the apartments from the contingent offering (and now covered by the final developer's public report); **AND**
 - 3) Amend or update (via a supplementary developer's public report) the final developer's public report to clarify that the apartments being offered for sale include only the apartments for which the material house bond covers; **OR**
 - 4) Provide a material house bond in the amount covering the entire condominium project not just the increment.
4. Program of Work, FY03 – Advice, Education, and Referral **Recommend deferral** of a response to the Hawaii Criminal Justice Data Center letter of November 21, 2002 until such time staff receives input from condominium association management related organizations on the subject matter.
5. Next Meeting: **Friday, January 10, 2003**
9:30 a.m.
Conference Room
Realtors Association of Maui
441 Ala Makani Place
Kahului, Maui

Licensing and
Registration -
Ratification:

Upon a motion by Commissioner Choi, seconded by Commissioner Okawa, it was voted on and unanimously carried to ratify the attached list.

Licensing –
Applications:

Hualalai Realty, LLC

Natalie Hiu, attorney for Hualalai Realty, LLC, was present at the meeting to answer any questions the Commission may have regarding their request for conversion from Hualalai Realty, Inc., to Hualalai Realty, LLC. Ms. Hiu was asked if she wished to have the application considered in executive session. She declined the offer.

Ms. Hiu stated that she had nothing to add to add but that she would be happy to answer any questions.

Commissioner Yamanaka recused himself from the meeting.

Upon a motion by Commissioner Okawa, seconded by Commissioner Imanaka, it was voted on and carried to approve the request of the conversion from Hualalai Realty, Inc. to Hualalai Realty, LLC, effective December 2, 2002.

Commissioner Yamanaka returned to the meeting.

Alan B. Lundberg

Commissioner Choi moved to approve the real estate salesperson's license application of Alan B. Lundberg. Commissioner Kagawa seconded the motion.

Commissioner Choi withdrew her motion. Commissioner Kagawa withdrew her second.

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

Tennile Wasserman

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

Committee Reports:

Administration of Examination

The Chair reported that the Commission's contract with Promissor allows for a five-year extension of the contract. The Commission needs to notify Promissor by the end of this month whether or not the contract will be extended. If the Commission decides to discontinue the contract, the Commission must provide a year's notice of its intention.

The Commission needs to determine if they are satisfied with the performance of Promissor in the next year. If they are not happy with the services provided by them, the Commission may cancel the contract and seek proposals from other testing vendors.

Commissioner Abrams stated that he was concerned that some applicants were allowed to take the examination when they had not met all of the precicensing requirements. Commissioner Abrams was notified that the problems have been resolved.

REB staff is working on allowing people to take the exam in other jurisdictions. It is one of the options in the laws and rules and is included in the contract. People have been inadvertently allowed to take the exam out-of-state in the past. If candidates are allowed to take the exam out-of-state, the testing personnel in the other state may not be aware of Hawaii's requirements.

Commissioner Yamanaka expressed his concerns that if the Commission terminated the contract, there would be a lapse of service until the contact with the new vendor is approved and finalized.

The SEO pointed out that the Chair felt that the new Commissioners may not have had an opportunity to examine all of the issues, to see what services are offered by the other vendors, and what testing vendors are used by the other states.

Real Estate Specialist Wong discovered the option to cancel the contract after giving one year's notice and also the five-year contract extension provision.

Commissioner Chinen arrived.

Promissor does have the option of refusing to agree to the five-year extension of the contract.

Commissioner Abrams asked if notice could be given for any reason. Real Estate Specialist Wong informed the Commissioners that both parties have the right to give notice.

Commissioner Imanaka asked if it were permissible to extend the contract for another year until the new Commissioners feel more comfortable with making a decision.

Real Estate Specialist Wong stated that the extension would be for a five-year term. Within the five-year term of the contract, the contract could be terminated provided a year's notice has been given.

Commissioner Imanaka asked if staff had concerns with the continuation of the Promissor contract. He was informed that staff will be taking a more aggressive role in monitoring examinations. Real Estate Specialist Arata will be monitoring the real estate licensing examination on the island of Maui on January 11, 2003. REB staff is still hoping to meet with Ho Mun of Promissor. REB staff would also like to have training sessions with the schools and those who administer the examination.

Upon a motion by Commissioner Imanaka, seconded by Commissioner Choi, it was voted on and unanimously carried to approve the five-year extension of the testing service contract with Promissor, provided that the contract allows the parties to terminate the contract with one year's notice.

Commissioner Rice arrived.

REB staff will generate the letter to Promissor and will request that out-of-state examinations be permitted.

The Deputy Attorney General stated that the testing company has an option of asking for an increase of us to 25% more with the authorization of the extension.

SEO's Report:

Announcements, Introductions, Correspondence and Additional Distribution

Ms. Thompson stated that she is looking forward to the upcoming legislative session and working with the Commission.

Ms. Thompson wished everyone a "Happy Holidays!" and looks forward to 2003.

Executive Session:

Upon a motion by Commissioner Abrams, seconded by Commissioner Kagawa, 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 Yamanaka, seconded by Commissioner Abrams, it was voted on and unanimously carried to move out of executive session.

Chapter 91, HRS, Adjudicatory Matters:

The Chair called for a recess from the meeting at 9:43 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 Realty Rentals, Inc., and Bonita A. Scida, REC 99-7-L

Upon a motion by Commissioner Choi, seconded by Commissioner Rice, it was voted on and unanimously carried to approve the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order and the Commission's Final Order.

In the Matter of the Real Estate Broker's License of Daryl R. Gerloff dba Gerloff Realty; REC 2000-138-L

Upon a motion by Commissioner Imanaka, seconded by Commissioner Choi, it was voted on and carried to accept the Settlement Agreement

After Filing of Petition for Disciplinary Action and Commission's Final Order. Commissioner Ohama opposed the motion.

The Commissioners were asked to review the agendas prior to the meeting to see if there are any possible conflicts of interest. If there is a possible conflict of interest, they were asked to notify staff immediately.

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 9:48 a.m.

Licensing -
Applications:

Alan B. Lundberg

After a review of the information submitted by the applicant, Commissioner Imanaka moved to deny Alan B. Lundberg's application for a real estate salesperson's license, unless within 60 days the applicant submits written proof of payment, written payment plan, or written proof of discharge. Commissioner Okawa seconded the motion. The motion was voted on and unanimously carried.

Tenille Wasserman

After a review of the information submitted by the applicant, Commissioner Rice moved to deny Tenille Wasserman's application for a Hawaii real estate salesperson's license. The Commission determined that the applicant is still solely responsible for obtaining the correct information and if she feels that she was wronged by the prelicensing school, she is encouraged to file a complaint with RICO. Commissioner Okawa seconded the motion. The motion was voted on and unanimously carried.

Next Meeting:

Friday, January 24, 2003
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 9:49 a.m.

Reviewed and approved by:

/s/ Alan Taniguchi
Alan Taniguchi
Executive Officer

January 24, 2003
Date

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

APPROVED APPLICATIONS FOR REAL ESTATE
REAL ESTATE COMMISSION MEETING ON DECEMBER 13, 2002

<u>Brokers – Corporations and Partnerships</u>	<u>Effective Date</u>
Ramona J. Biho Realty, Inc. Ramona J. Biho, PB	01/01/03
Create Corporation Glenn M. Abe, PB	11/01/02
Blue Sky Properties, Inc. Julie M. Cecil, PB	01/01/03
Fairfield Resort, Inc. Steven B. Dixon, PB	12/03/02

<u>Brokers – Limited Liability Companies and Partnerships</u>	<u>Effective Date</u>
One Source Realty LLC Evan I. Scherman, PB	01/01/03
Dunhill Hawaii Management, LLC Carl D. Johnsen, PB	01/01/03

<u>Brokers - Sole Proprietor</u>	<u>Effective Date</u>
Nathan V. Wong, Anchor Properties Hawaii	11/13/02
James M. Hentz, J. Hentz Realty Service	11/12/02
Robert P. Merkle, Glorias Vacation Rentals	11/20/02
Robert W.Y. Wong, Robert W.Y. Realty	11/19/02
Judy Richardson, JR Real Estate	01/01/03
Sheldon Soosman, S & S Realty	01/01/03

<u>Branch Office</u>	<u>Effective Date</u>
Fairfield Resorts, Inc. Steven B. Dixon, PB	12/03/02
Fairfield Resorts, Inc. Steven B. Dixon, PB	12/03/02

<u>Equivalency to Uniform Section of Examination Certificate</u>	<u>Expiration Date</u>
Susan A. Telliard	11/20/04
Nancy Sung	11/22/04
Michael D. Coyle	11/22/04
Michael Joseph Broder	11/27/04
Stuart Rynd Norsell	11/27/04

<u>Educational Equivalency Certificate</u>	<u>Expiration Date</u>
Milissa Liana Ceria	11/18/04
Geoffrey Robin Bailey	11/18/04
Susan A. Telliard	11/20/04
Nancy Y. Sung	11/22/04
John Charles Giberson	11/22/04
Barbara Giberson	11/22/04
Shojiro Miki	11/26/04
Desiree L.H. Mokuohai	11/27/04
Michael Joseph Broder	11/27/04
Yee Ling Ng	11/27/04
Stuart Rynd Norsell	11/27/04

Real Estate Broker Experience Certificate

	<u>Expiration Date</u>
Ghislaine O. Beaudoin	11/18/04
Gary S. Baker	11/18/04
Todd Lee F. Higuchi	11/18/04
Susan A. Telliard	11/20/04
Debbie Hart	11/27/04
Stuart Rynd Norsell	11/27/04
Phyllis R. Campbell	12/02/04

Continuing Education Equivalency

	<u>Approved Date</u>
Palm Lyn Whatcott	11/19/02

Real Estate Broker (upgrade)

	<u>Effective Date</u>
Xing Cheng	11/22/02
Judy Gray Johnston	01/01/03
Mark S. Sullivan	01/01/03
Lynn M. Honda	01/01/03
Karla F. Casey	01/01/03
Mila Kim	11/06/02
SallyAnn Kraensel	11/14/02
Jeffrey P. Fox	01/01/03
Brian C. Benton	01/01/03
Michael A. Littman	01/01/03
Sandra M. Mann	01/01/03
Edgar S. Marcus	01/01/03
Stanley M. Yoshioka	10/25/02