

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 19, 1992

Time: 9:00 a.m.

Place: Penthouse Conference Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Penthouse
Honolulu, Hawaii

Present: Peter Yanagawa, Oahu Member, Chairman
Barbara Dew, Oahu Member
Jerry Hirata, Hawaii Member
Yoshiko Kano, Kauai Member
Stanley Kuriyama, Oahu Member
Carol Mon Lee, Public Member
Marcus Nishikawa, Oahu Member
Douglas Sodetani, Maui Member (Late arrival)

Calvin Kimura, Supervising Executive Secretary
Christine Rutkowski, Executive Secretary
Russell Wong, Real Estate Specialist
Lynn Miller, Real Estate Specialist
Benedyne Stone, Condominium Specialist
Diane Erickson, Deputy Attorney General
Irene Kotaka, Secretary

Shari Wong, Special Deputy Attorney General
Richard Marshall, Hearings Officer
Owen Tamamoto, RICO Attorney

Dennis M. Benson, Hawaii Association of Realtors
Alvin M. Imamura, Incoming Commissioner
Kenneth B. Griffin, Bradley Properties
Michael Pence, Hawaii Association of Real Estate Schools
Eric Rosso, Bradley Properties
Sam Daily, Applicant
Clara Shimabukuro, AA Management
Peter Virdone, AA Management
Betty Dower, Dower School of Real Estate
Rita J. Shoultz, Applicant
Desmond Byrne
Charles Crumpton, Attorney for KEI
Gloria Damron, Bradley Properties

Cynthia Yee, Hawaii Real Estate Research & Education Center
Steve Gilbert, Hawaii Real Estate Research & Education Center
John Stapleton, Hawaii Institute of Real Estate
M. Russell Goode, Hawaii Association of Real Estate Schools

Excused: Theo Butuyan, Public Member

Call to Order: Chairman Yanagawa called the meeting to order at 9:21 a.m., at which time quorum was established.

Chairman's Report: Chairman Yanagawa stated that he was glad to have served on the Commission for the past eight years.

Executive Secretary's Report: The Supervising Executive Secretary reported that Alvin Imamura, the incoming Commissioner from the island of Maui was present at the meeting.

The Supervising Executive Secretary also reported that Commissioner Butuyan was reappointed on June 9, 1992, at 1:30 p.m., at McKinley High School. His term expires on June 30, 1996.

Alvin Imamura will be sworn in on July 23, 1992, at 1 p.m., at the Maui County Chambers. His term expires on June 30, 1996.

Francine Duncan will be sworn in on August 18, 1992, at 1 p.m., at the Hilo State Building. Her term expires June 30, 1996. Ms. Duncan is to be sworn in as a public member of the Commission.

Commissioner Butuyan is unable to attend today's meeting.

Commissioner Sodetani arrived.

Outgoing Chairman Yanagawa and Commissioner Sodetani were presented leis on behalf of the Commissioners.

Mr. Benson presented Chairman Yanagawa and Commissioner Sodetani with a certificate of appreciation on behalf of the Hawaii Association of Realtors.

The Supervising Executive Secretary reported that Licensing Branch is undergoing changes.

Additions to the Agenda: Upon a motion by Commissioner Nishikawa, seconded by Commissioner Sodetani, it was voted on and unanimously carried to add the following items to the agenda:

3. Executive Secretary's Report
 - c. Certificates of Appreciation
6. Committee Reports

- a. Education Review Committee
 - (1) Program of Work and Budget, Draft #5
 - (2) Instructor Development Workshop Video Taping
 - b. Condominium and Cooperative Review Committee
Program of Work and Budget, Draft #5
 - c. Laws and Rules Review Committee
Program of Work and Budget, Draft #4
9. Licensing - Questionable Applications
PVT Realty, Inc.

Additional
Distribution:

The following additional materials were distributed:

3. Executive Secretary's Report
 - b. Minutes of the January 24, 1992 and April 16, 1992
Commission Meetings
6. Committee Reports
 - a. Education Review Committee
 - b. Condominium & Cooperative Review Committee
 - c. Laws and Rules Review Committee

Adjudicatory

The Chairman called for a recess from the Commission meeting at 9:31 a.m.
Matters: to discuss and deliberate on the following
adjudicatory matters pursuant to Chapter 91, Hawaii
Revised Statutes:

- a. Marilyn S. Knutson dba Knutson and Associates, REC 91-2. Accept the Hearing Officer's findings of fact and conclusions of law but reduce the fine to \$500.
- b. Newtown Realty, Inc., Janice H. Tsuchitori and Wayne M. Yoshioka, REC 91-57-L, 91-58-L, 91-108-U, 91-109-L. Approve the Settlement Agreement After Filing of Petition for Disciplinary Action and Board's Final Order.

Following the Commission's review, deliberation and decision in these matters, pursuant to Chapter 91, Hawaii Revised Statutes, Chairman Nishikawa announced that the Commission was reconvening to its scheduled-Commission meeting at 10:36 a.m., pursuant to Chapter 92, Hawaii Revised Statutes.

Committee
Reports:

Education Review Committee

Upon a motion by Commissioner Dew, seconded by Commissioner Sodehani, it was voted on and unanimously carried to approve the recommendations of the June 5, 1992 Education Review Committee Meeting, as follows:

1. March 18, 1992 Minutes. Accept subject to amendment to "Excused" by deleting all names of non-committee members.

Excused should only reflect committee members.

2. HREREC - Seminars. Defer the draft "Criteria for Reviewing Proposals for Real Estate Education Seminars" to the next Education Review Committee meeting, but note that "videotaping" should be optional based on circumstances.
3. Administrative Issues - Prelicense Curriculum, Schools, Instructors. Recommend approval of the request of Rita M. Bollum of Lanai to take a home study course.
4. PVL Request - License Examination Report. Recommend to deny the request of PVL and that real estate licensing exams shall be held in October, November and December 1992, SUBJECT to all prelicensing schools providing full written disclosure to all prospective students and students of the 90 day complete application submission dates, fees for 1992 and 1992/1993 renewals, CE requirements for the active licensees, delayed license application processing during the renewal period, etc., from the approval date of this report until the December 1992 examination, with staff to draft the memorandum of disclosure.
5. NARELLO. Acknowledge receipt of the minutes of the April 28, 1992 Education and Standards Committee meeting.

Instructor Development Workshop (IDW) - Video Production

Upon a motion by Commissioner Dew, seconded by Commissioner Nishikawa, it was voted on and unanimously carried that the Commission not video tape the Instructor Development Workshops, that the Commission sanction the Hawaii Association of Realtors to video tape the workshops and make it available to the instructors, and that the Commission discuss the format with the providers to see if they could offer it as an alternative.

Real Estate Schools

The licensing examinations will be held during October, November, and December 1992. The schools were asked to distribute copies of the Commission's Notice to all Candidates for Real Estate Schools, Exams, and Licenses for 1992 to their students.

Mr. Stapleton asked if the Licensing Branch supports the Commission's decision to offer the exams during October, November and December, 1992. He was informed that Licensing Branch would support this if the real estate schools would assist them in distributing the notice to all of their students.

Condominium and Cooperative Review Committee

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Lee, it was voted on and unanimously carried to approve the recommendations of the

June 4, 1992 Condominium and Cooperative Review Committee Meeting, as follows:

1. Hawaii Real Estate Research and Education Center
 - a. Five Year Education and Research Plan - completing work on next draft
 - b. Hawaii Condominium Bulletin - proceeding with printing/distribution of second bulletin.
 - c. Condominium Association Budget and Reserves
 - (1) Manual - continuing with work on the next drafts of the format and curriculum, working with consultant Morris, will meet with focus groups.
 - (2) Rule Making - No report
 - (3) Workshops - late summer and fall
 - d. Board of Directors Manual - No report
 - e. Condominium Seminars - Chairman to work out concerns regarding HREREC and recommend that videotaping be decided on a case-by-case basis.
 - f. Program of Work and Budget, FY 1992-93 - Chairman and Supervising Executive Secretary to work out concerns with Steve Gilbert.
 - g. Federal Leasehold Study - HUD reports it has passed and \$400,000 is the funding to HREREC.
2. CCRC Program of Work and Budget for Fiscal Year 1992-93. Approve Draft #4, subject to finalizing HREREC proposals.
3. Act 50 (SLH 1992) - Mark A. Hazlett. Staff to review proposed recommendations for informal/non-binding interpretation with Mr. Hazlett, and that Mr. Hazlett be invited to submit further legal arguments for the Commission to consider if he disagrees with the Commission's proposed recommendations. Mr. Hazlett should also be informed that he is free to file a petition for declaratory relief for formal interpretation that is binding and provides precedent. The proposed recommendations are as follows:
 - Act 50 does not apply to owner-occupant announcements properly published prior to April 29, 1992, but will apply to improperly published announcements prior to April 29, 1992 that are required to be republished after such date.
 - Reaffirmation of the affidavit at escrow closing is to be completed by all persons who were required to submit an executed affidavit in reservation of residential unit per §514A-103.
 - An owner-occupant who cannot reaffirm the affidavit at escrow closing cannot waive rescission rights.
 - An owner-occupant who cannot reaffirm the affidavit shall be required to rescind the sales contract regardless if a name does not appear on the final reservation list.

4. County of Hawaii Planning Department Concerns. Acknowledge receipt of the concerns, will study the issues, and staff to work with the County on what requirements the Commission has already imposed and whether any additional requirements should be adopted that can address some of the county's concerns.

Laws and Rules Review Committee

Upon a motion by Commissioner Sodeani, seconded by Commissioner Lee, it was voted on and unanimously carried to approve the recommendations of the June 4, 1992 Laws and Rules Review Committee Meeting, as follows:

1. Program of Work and Budget, Fiscal Year 1992-93. Chairman and Executive Secretary are finalizing the previously-approved draft.
2. 1992 Legislature - H.C.R. #400, H.D.1, Requesting a Study on the Feasibility of Enacting Mandatory Seller Disclosure Laws. Acknowledge receipt and that the matter has been assigned to HREREC to be completed by December 31, 1992.
3. Special Issues.
 - a. Commissions - Charles Holly
Defer to staff to respond, requires more information.
 - e. Unlicensed/Owner-Builder - Michael Shewmaker
Defer to staff to transmit written concerns on issues to Contractors Licensing Board, PVL, and RICO. In addition, staff to work with HREREC on any educational efforts in these areas.
 - f. Rule Proposal - Signs - Stathie John Prattas
Defer to staff to respond that in discussion with representatives from the Kona Board of Realtors, request that the matter be handled with education to membership and that the Commission consider an educational effort on the sign issue, possibly through the bulletin and incorporating into the advertising brochure. In addition, refer issue to County of Hawaii's Building Department.

Licensing:

Questionable Applications

Eric C. Rosso

Mr. Rosso was present to request an equivalency to the ten transaction requirement, three listing contracts that have closed escrow, and three sales contracts that have closed escrow. He also requests that his licensing records be amended to reflect that he was signed on with Bradley Properties, effective February 1, 1989.

Minutes of the June 19, 1992
Real Estate Commission Meeting
Page 8

Mr. Rosso stated that he attempted to have his previous principal broker sign the change form to release him, but she refused to do so.

Mr. Griffin, who was representing Bradley Properties, had two affidavits prepared. One was from his previous principal broker attesting to the fact that was her signature on the copy of the change form that he had in his possession. The other was from the principal broker of Bradley Properties, attesting to the fact that was her signature on the Change form, also. Their records indicate that the documents were forwarded to the Licensing Branch but Licensing Branch reported that they had not received the documentation.

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

Sammy G. Daily

Mr. Daily was present to request that the Commission approve his application for a real estate salesperson's license.

Mr. Crumpton stated that there is a final judgment against Sammy G. Daily and Sam Daily Realty, Inc., in the amount of \$1,300,000, including pre-judgment interest, costs and attorney's fees. The judgment was affirmed on appeal by the Intermediate Court of Appeals. He stated that his clients will be filing a motion to order payment from the Real Estate Recovery Fund. He also stated that KEI and its partners objects to the reinstatement of Mr. Daily's real estate license and to the reinstatement of Sam Daily Realty, Inc.'s license. Mr. Crumpton also stated that he had received a letter with Mr. Daily's signature indicating that Mr. Daily was acting as a real estate salesperson while not licensed.

Mr. Daily stated that the stay was lifted for Margaret Daily, his wife, and Sam Daily Realty, but not for Sam Daily. KEI indicated that they had lifted the stay for Sam Daily. A judgment was filed in 1986. The Ninth Circuit Court of Appeals states that when they violated the removal of the state, any judgment obtained is null and void and they are responsible for the legal fees. He stated that there has been a conspiracy against him since 1984. He stated that he is an honorable individual who has spent his life in the Air Force and as a real estate licensee. He can never recover from the damage. He will not tell the Commission that he is sorry that he was raped by KEI. He said that he is not guilty.

Commissioner Sodetani asked Mr. Daily if that was his signature on the letter that was submitted by Mr. Crumpton.

Mr. Daily stated that he did not write the letter.

Minutes of the June 19, 1992
Real Estate Commission Meeting
Page 10

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

Mr. Daily questioned why the matter was taken under advisement.

A-A Management

Ms. Clara Shimabukuro and Mr. Peter Virdone was present to request an exemption from the condominium managing agent bond requirement.

Ms. Shimabukuro stated that she has a fidelity bond for \$100,000 which covers both A-A Management Corporation and Qualified Consultants, Inc. She shares offices with Peter Virdone and Company. One insurance policy covers the entire office. Her insurance agent has made diligent efforts to obtain bonding. He cannot obtain a bond stating that it only covers those dealing with the condominium managing agent management. She has made full disclosures to the two boards that they managed and have two signed letters from the boards in which they agree to accept the current fidelity bond of \$100,000. An exemption was previously granted for the same circumstances.

Commissioner Kuriyama asked how the bond handles multiple claims. The bond is for \$100,000 per claim.

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

Ms. Shimabukuro stated that the package includes controls that the operation has about certain employees doing certain functions and that checks for over \$1,000 requires two signatures. They have made it very difficult for employees to embezzle.

Rita Jo Shultz

Ms. Shultz was present to request an equivalency to two listings that have closed escrow and three sales that have closed escrow.

Ms. Shultz stated that she has been with Monroe and Friedlander since 1976. She is licensed in Alaska and is active with the National Association of Realtors. She is the editor of the National Investment Journal. She is involved in commercial leasing at Monroe and Friedlander.

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

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

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Sodetani, it was voted on and unanimously carried to approve Draft #5 of the Program of Work and Budget of the Condominium and Cooperative Review Committee, for Fiscal Year 1992-93 and to proceed to finalizing the program of work.

Licensing: **Questionable Applications**

Sammy G. Daily

After a review of the information presented, Commissioner Sodetani moved to deny Mr. Daily's application for a real estate salesperson's license. Commissioner Hirata seconded the motion. The motion was voted on and unanimously carried.

Commissioners Nishikawa and Kuriyama were excused from the meeting.

Committee Reports: **Education Review Committee**

Upon a motion by Commissioner Sodetani, seconded by Commissioner Lee, it was voted on and unanimously carried to approve Draft #5 of the Program of Work and Budget for the Education Review Committee, for Fiscal Year 1992-93 and to proceed to finalizing the program of work.

Laws and Rules Review Committee

Upon a motion by Commissioner Sodetani, seconded by Commissioner Kano, it was voted on and unanimously carried to approve Draft #4 of the Program of Work for the Laws and Rules Review Committee, for Fiscal Year 1992-93 and to proceed to finalizing the program of work.

Licensing: **Ratification**

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

Brokers:

John Peterson
Metro Inc. dba Metro Real Estate
Consultants Pacific Group, Ltd.
Pan-Pacific Business Services, Inc.
Skybird Properties, Inc.
Hale Kona Realty, Inc. Better Homes and Gardens
Pat Doi and Company, Inc.

Branch Office:

Randy D. Ragon dba Time Share Resales Hawaii (Hanalei, Kauai)

Trade Names:

Annette Pothul dba The Advisory Group
Max Sherley & Associates, Ltd. dba MSA Property Management Services
Futura N. Sauvage dba Windward Isle Properties
R. K. Ho & Associates, Inc. fka Acme Realty, Inc.
John J. Alconera dba Johnnie Alconera Realty
Thomas K. Adams dba Tom Adams Commercial Real Estate
Matilda Laie Carter dba Emerald Properties
East Oahu Realty, Inc. dba Prudent Investors East Oahu Realty
Frederick S. Veregge dba FSV Commercial Real Estate
Melissa Y. F. Wong dba Realty Art
Yu-Fong Okoji dba Okoji and Associates
Paul John Stimac dba Coconut Coast Realty

Condominium Managing Agents:

Bello Realty, Inc.
Max Sherley & Associates, Ltd. dba MSA Property Management Services,
A Division of Max Sherley & Associates, Ltd.
Lowell D. Funk, Inc.

Condominium Hotel Operator:

Molokai Partnership

Condominium Project Registration - Public Reports Issued:

Bougainvillea Plaza, Hawaii (Final)
Kalani Makai, Hawaii (Final)
Moanalua Village-I, Honolulu (Final)
Olaloa-Project I, Honolulu (Final)
Queen Emmalani Tower, Honolulu (Preliminary)
Kaha Kai, Honolulu (Final)
Lot 46-A-7 of Kalani Makai, Increment II-A, Hawaii (Final)
Kanoe Palms, Maui (Final)
59-241 Ke Nui Road, Honolulu (Final)
Oceanview Estates, Honolulu (Final)
Big Island Ventures' Estate, Hawaii (Final)
Harborview Vistas Lot 45, Hawaii (Final)
Kalukalu 1st, Hawaii (Final)
Kanehoa Lot 14, Honolulu (Supplementary)

Executive Session: Upon a motion by Commissioner Sodetani, seconded by Commissioner Kano,

Hawaii Golden Realty, Inc.

After a review of the information submitted by the applicant, Commissioner Sodetani moved to approve the real estate corporation application of Hawaii Golden Realty, Inc. Commissioner Dew seconded the motion. The motion was voted on and unanimously carried.

Donna Lee Collis

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

Edward L. Felts

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

Raymond K. W. Ho

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

Leslie R. Johnson

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

Deborah L. Konick

After a review of the information submitted by the applicant, Commissioner Hirata moved to deny Ms. Konick's application for a real estate salesperson's license. Commissioner Sodetani seconded the motion. The motion was voted on and unanimously carried.

Jerrold J. Markle

After a review of the information submitted by the applicant, Commissioner Hirata moved to defer Mr. Markle's application for a real estate salesperson's license, pending further information. Commissioner Dew seconded the

motion. The motion was voted on and unanimously carried.

Eric C. Rosso

After a review of the information presented by the applicant, Commissioner Sodetani moved to deny Mr. Rosso's request for an equivalency to the ten transaction requirement and his request to amend the licensing records to reflect an active status with Bradley Properties, as of February 1, 1989.

Rita Jo Shoultz

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

Cynthia A. Truelove

After a review of the information submitted by the applicant, Commissioner Sodetani moved to deny Ms. Truelove's request for an equivalency to two listings that have closed escrow and three sales transactions that have closed escrow. Commissioner Lee seconded the motion. The motion was voted on and unanimously carried.

Steve Wolshin

After a review of the information submitted by the applicant, Commissioner Hirata moved to deny Mr. Woloshin's request for an equivalency to three listings that have closed escrow. Commissioner Dew seconded the motion. The motion was voted on and unanimously carried.

Gifford Chang

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

Ames Kuula Chow, D.C.

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

A-A Management Corporation

After a review of the information presented by the applicant, Commissioner Hirata moved to deny the request for exception to the fidelity bond requirement and to accept a multiple entity bond, with conditions. Commissioner Lee seconded the motion. The motion was voted on and unanimously carried.

Chester M. Cabral

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

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

Commissioner Hirata returned to the meeting.

PVT Realty, Inc.

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

Approval of

Upon a motion by Commissioner Sodetani, seconded by Commissioner Lee, it

Minutes:

was voted on and unanimously carried to approve the minutes of the June 28, 1991, January 24, 1992, and April 16, 1992 Real Estate Commission meeting, as circulated.

Executive Secretary's

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

Report:

voted on and unanimously carried to present a certificate of appreciation to Colleen Cameron, Records Clerk, Chairman Yanagawa and Commissioner Sodetani.

Next Meeting:

Friday, July 24, 1992
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, Chairman Yanagawa adjourned the meeting at 12:40 p.m.

Reviewed and approved

Christine Rutkowski
Executive Secretary

Date