

REAL ESTATE COMMISSION
Professional & 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, February 25, 1994

Time: 9:00 a.m.

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

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

Calvin Kimura, Supervising Executive Officer
Christine Rutkowski, Executive Officer
Russell Wong, Real Estate Specialist
Lee Ann Teshima, Real Estate Specialist
Jan Yamane, Real Estate Specialist
Benedyne Stone, Condominium Specialist
James Paige, Deputy Attorney General
Tammy Norton, Recording Secretary

Shari Wong, Special Deputy Attorney General
Dona Jean Johnson, applicant
Donald R. Blum, Kokua For Travel Agents
Scott Bradley, Referral Services, Inc.
Eileen Luko, Referral Services, Inc.
Riette Glavor, applicant
Amado C. Quemado, applicant
Chuck Whalen, Touchstone Properties, Ltd.
Thomas Muller, applicant
R. Donald Brough, A'ala Honua Realty, Inc.
Rodney Chai, Management Specialists Co.

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

Call to Order: Vice-Chair Dew called the meeting to order at 9:00 a.m., at which time quorum was established. The Vice-Chair stated that Chair Nishikawa would be arriving at the meeting shortly.

Executive
Officer's Report:

Additions to the Agenda

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

8. Licensing - Restoration of Forfeited Licenses
 Under Two Years - Broker
 01/01/93 Stanley R. Alapa
 Under Two Years - Salesperson
 01/01/93
 Riette R. Glavor Marden J. Manawis-Molina
 Sandra H.E.O. Oguma Janice K. Tokuno
 Over Two Years - Salesperson
 01/01/91 Jane E. Iehl

9. Licensing - Questionable Applications
 - Aloha Commercial Services, Inc.

Chair Nishikawa arrived at 9:06 a.m.

Additional Distribution

The following were distributed to the Commissioners for their consideration:

3. Executive Officer's Report
 - b. Minutes of January 28, 1994 REC Meeting
 - c. Commissioners 1994 Schedule of Non-accessible Dates
4. Chapter 91, Hawaii Revised Statutes, Adjudicatory Matters
 - d. Buckman & Co., Inc., Mark F. Buckman and Patricia W. Buckman, REC 92-9 & 92-142, Settlement Agreement, payment of fine.
6. Committee Reports
 - c. Education Review Committee
9. Licensing - Questionable Applications
 - Referral Services, Inc.
 - Management Specialists Company

Commissioners 1994 Schedule of Non-accessible Dates

A 1994 Schedule of the Commissioners Non-accessible Dates was circulated. Commissioners were requested to notify staff of any changes.

Chair's Report:

Chair Nishikawa introduced James Paige, Deputy Attorney General, who has been temporarily assigned to the Real Estate Commission. Deputy Attorney General Diane Erickson has been reassigned. She has served the Commission as its deputy attorney general for three years. The Commission extends its sincere appreciation to Diane Erickson for her years of service to the Commission and wishes her well in her future endeavors.

Upon a motion by Commissioner Kano, seconded by Commissioner Imamura, it was voted on and unanimously carried to approve the issuance of a Real Estate Commission appreciation plaque to Deputy Attorney General Diane Erickson.

It was reported that Commissioner Butuyan has been excused from the meeting. Commissioner Butuyan is in the Philippines receiving an award as outstanding entrepreneur.

Adjudicatory
Matters:

The Chair called for a recess from the Commission meeting at 9:09 a.m. to discuss and deliberate on the following adjudicatory matters pursuant to Chapter 91, Hawaii Revised Statutes:

- a. Hawaiian Properties, Ltd., Ronald D. Silverman, and Warren M. Sweet, REC 91-480 and REC 92-280

Commissioner Kuriyama made a motion to approve the Settlement Agreement After Filing of Petition for Disciplinary Action subject to strong suggestion that RICO negotiate a time deadline as to when the real estate courses must be completed by both respondents with the following vote:

<u>Approve</u>	<u>Oppose</u>
Kuriyama	Hirata
Nishikawa	Dew
Imamura	
Kano	
Lee	

- b. Jay Kent Bien, REC 92-132-L

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

- c. Oihana Property Management and Sales, Inc., Dick Weaver, REC 92-53-L, 92-61-L and 92-227-L

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

- d. Buckman & Co., Inc., et al, REC 92-9, 92-90, 92-142

No action taken. Notice transmitted to the Real Estate Branch on February 24, 1994 from RICO that payment of fine has been made in accordance with the settlement agreement.

Following the Commission's review, deliberation and decisions in these matters, pursuant to Chapter 91, HRS, the Chair announced that the Commission was reconvening to its scheduled Commission meeting at 9:45 a.m., pursuant to Chapter 92, HRS.

Recovery Fund
Report:

No report was presented.

Committee Reports:

Condominium and Cooperative Review Committee

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Lee, it was voted on and unanimously carried to accept the report and the recommendations of the February 9, 1994 Condominium and Cooperative Review Committee meeting as follows:

1. Accept minutes of January 12, 1994 meeting.
2. Hawaii Real Estate Research and Education Center Report
 - a. Hawaii Condominium Bulletin
 - (1) The Winter 93-94 issue has been completed and mailed.
 - (2) The proposed mailing date for the Spring 94 issue is 4-1-94.
 - b. Condominium Board of Director's Guide - The liability chapter is at the printers and will be distributed at the 2/26/94 seminar and through the Spring '94 Condominium Bulletin. A draft of the proxies chapter was distributed at the meeting. The Center requested a small subcommittee be designated to provide comments. Final version anticipated for March 1994 CCRC meeting.
 - c. Media Educational Articles - Center anticipates providing the committee with specifics about this project toward the end of the fiscal year.
 - d. Condominium Seminars
 - (1) Recommend cancellation of the Community Associations Institute ("CAI") Leadership Training seminar rescheduled for February 19, 1994 in Kona due to lack of adequate participation. Persons who signed up to be provided complimentary condominium brochures and materials. CAI to be reimbursed for administrative costs accrued to date.
 - (2) Free Oahu seminar on Board Member's Fiduciary Duties is scheduled for February 26, 1994, Saturday, 9:00 a.m. to 12 noon, EWC's Jefferson Hall. Mentioned in Hawaii Condominium Bulletin. Center is investigating videotaping for neighbor island distribution. Funds to sponsor seminar budgeted from the Condominium Seminars program of the CCRC Program of Work.
3. Condominium Governance and Management

- a. Condominium Dispute Arbitration - International Colony Club - Chair delegated staff to respond. Chair proposed further investigation regarding the possibility of binding arbitration.
 - b. Limitation of Liability of Directors of Non-residential Associations - Jay M. Jacobus - Chair delegated staff to respond. Chair proposed further investigation regarding the issue of overcoming owner apathy.
 - c. Blue Ribbon Panel - Possible Condominium Legislation - Specialist Okumura reported that bills have been introduced based on concerns expressed by the Blue Ribbon Panel.
 - d. In the Line of Liability - Common Ground - Supervising Executive Officer Kimura reported that a national trend favors increased individual owner and AOA liability especially where harm is foreseeable.
 - e. How Community Associations Enforce the Rules - Common Ground - Supervising Executive Officer Kimura reported on articles emphasizing notice and communication between the board and apartment owners.
 - f. Seminar, February 19, 1994, Association Law and Management from A-Z - CAI Hawaii - See item 2(d)(1) above.
 - g. Seminar, February 11, 1994, Enforcement of Covenants, Conditions and Restrictions - Hawaii Institute for Continuing Legal Education - Chair to attend.
 - h. Open Forum - Ms. Ananian reported that a recent issue of the Common Ground magazine relates to trend for owner participation. The Center may be interested in the article as research for the proxies chapter of the Condominium Board of Directors Guide.
4. Project Registration, Public Reports, and Sales to Owner-Occupants
- a. Proposed Amendment to Part III. Registration and Administration, Chapter 514A, HRS - James L. Watson - Recommend informal interpretation that discussion with existing tenants initiated by building owner regarding possible conversion to condominium for non-residential property which does not include price or otherwise encourage or promote the sale of apartments, is permitted.
 - b. Amendment to Chapter 8, Kauai County Code 1987, Relating to Additional Dwelling Units -Ordinance No. 644 - Specialist Shiroma reported that Ordinance No. 644, Bill No. 1541, Draft 1 has extended the deadline which allows additional dwelling units to be developed to December 31, 1996. County of Kauai Planning Department has provided the REC with a copy of their Comprehensive Zoning Ordinances.
 - c. Short Form Public Report Research - Staff will be meeting with Chair to discuss feasibility and format of a short form public report.

5. Program of Work

a. Condominium Mediation and Arbitration Program - recommend renewal of the Neighborhood Justice Center contract and renewal of the Maui Services Mediation contract upon their receipt of a letter of intent to renew by the commission. Request that further documentation be provided regarding each mediation.

b. Condominium Association Registration

(1) 1994 Registrations - recommend to impose the following penalties pursuant to §514A-49(b), HRS, to enforce the Association of Apartment Owners ("AOAO") registration requirements of §514A-94.1 against the following delinquent associations if, after contact with the Condominium Managing Agent, the AOAO still remains non-compliant:

Leilani Kai - Unregistered for the years 1990 through 1994. \$1000 penalty. Registration and payment of all back fees and penalties required.

Hono Koa - Unregistered for 1993. \$200 penalty. Registration and payment of all back fees and penalties required.

Waiiau Gardens Kai E - Unregistered for 1993. \$200 penalty. Registration and payment of all back fees and penalties required.

Waikiki Royal - Unregistered for the years 1992 and 1993. \$400 penalty. Registration and payment of all back fees and penalties required.

Attorney General's office to notify delinquent associations of the civil penalty assessed which will become a final order unless the association requests a contested case hearing within thirty days of notice. Staff to attempt verbal communication with the appropriate Condominium Managing Agent to notify them of the possibility of civil action, including penalties.

c. Condominium Managing Agent Registration - 1994 Registrations - Specialist Stone reported that 69 managing agents have registered to date.

d. Report to and Participation with the 1994 Legislature - Supervising Executive Officer reported on House and Senate bills relating to Condominiums.

e. Condominium Specialist Office for the Day - Specialist Shiroma reported on the various issues raised at the January 14, 1994 Maui Condominium Specialist Office for the Day. Commissioner Hirata suggested staff review the possibility of Condominium Hotel Operator re-registration requiring only a list of complaints made since the previous registration. The County of Maui Land Use and Codes Administration has provided REC a copy of their ordinances.

f. Interactive Participation with Organizations -

- (1) CAI Report - Recommend Commissioner Lee attend the CAI National Conference, April 21-23, 1994. Supervising Executive Officer Kimura to designate a staff alternate.
6. Budget and Finance Report - Recommend to accept the Budget and Finance Report for the Condominium Management Education Fund -2nd Quarter -FY 1994.
 7. Next Meeting: Wednesday, March 9, 1994
9:00 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Laws and Rules Review Committee

Upon a motion by Commissioner Kano, seconded by Commissioner Lee, it was voted on and unanimously carried to accept the report and recommendations of the February 9, 1994 Laws and Rules Review Committee meeting as follows:

1. Approved November 5, 1993 and January 12, 1994 minutes.
2. HREREC Report
 - Program of Work FY94
 - REEA Awards Submission - Consumer Education Program
 - Advertising brochure. First draft to be completed by 2/14/94, submitted to REC by 2/23/94
 - Broker Experience Certification. Completion of initial draft for 6/94 meeting.
 - Continuing Education 1993-94 Elective Courses
 - Fair Housing course final draft submitted with comments by 2/16/94.
3. ARELLO Report - Recommend approval of SEO to attend Board of Directors Meeting with alternate designated by SEO.
4. Budget and Finance Report - Accepted Real Estate Recovery Fund Financial Statements for Second Quarter of FY94.
5. Next Meeting: Wednesday, March 9, 1994
10:30 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Education Review Committee

Upon a motion by Commissioner Hirata, seconded by Commissioner Imamura, it was voted on and unanimously carried to accept the report and recommendations of the February 24, 1994 Education Review Committee meeting as follows:

1. Accept minutes of the January 27, 1994 meeting.
2. Budget and Finance Report - Awaiting draft of audit by Ikeda and Wong. Through no fault of REC, the audit contract has been extended an additional 6 (six) months.
3. HREREC Report
 - a. Advisory Council - Letter of appointment has been sent to Linda Coble. Staff is awaiting receipt of Ms. Coble's resume.
 - b. Program of Work and Budget, FY94
 - 1) Five Year Education and Research Plan - Recommend approval of "The Hawaii Real Estate Commission's Five Year Education Plan Reference Document 1993 - 1998", subject to final Staff review and minor revisions. Recommend acceptance of the Five Year Plan insert entitled "Status of the Real Estate Education Fund." Recommend acceptance of "Hawaii Real Estate Licensee Projections for the Years 1994 - 1999.
 - 2) Evaluation System for Schools, Providers, Instructors & CE Courses - HREREC met with Staff on January 31, 1994, to revise forms. HREREC to submit revisions by week of March 7, 1994.
 - 3) Real Estate Summit I - Due to limited availability of facilities on Oahu to hold the Summit, HREREC, Commissioner Nishikawa and Staff will explore the possibility of kicking off the Summit on the neighbor islands.
 - 4) Broker Curriculum and Resources - Recommend acceptance of "Broker's Curriculum Survey of Oahu Salespeople".
 - 5) Continuing Education 93 - 94 Core Course - HREREC to provide Commissioners and Staff with the final update for 1993 by week of February 28, 1994.
 - 6) Continuing Education 1993 - 94 Three Elective Courses - HREREC will distribute to Commissioners and Staff final draft of the fair housing course by week of February 28, 1994. HREREC commits to conduct a special three hour briefing session for potential instructors of the fair housing course.
 - 7) Examination - ASI Laws and Rules Report, Curriculum Review, and Item Writing -HREREC targets distribution of "1993 Legislation and Real Estate License Exam : State Content Outline Hawaii" to ASI by mid-March, 1994.
 - 8) Legislative Assistance Program - Ms. Cynthia Yee, HREREC, will submit written testimony on behalf of HREREC and in support of mandatory CE, and attend the up-coming Senate Committee on Consumer Protection hearing. Dr. Ordway, Director, HREREC, stated that he will be off-island and will be unable to attend the hearing.

- 9) Real Estate Licensees' Guide - HREREC to distribute draft to Commissioners and Staff for review the week of February 28, 1994.
 - 10) HAR Convention Participation - Approve HREREC to secure a booth at the HAR Convention. Booth will be manned solely by HREREC Staff.
4. Continuing Education Administration, Curriculum, Courses, Providers and Instructors - Application and Certification - Instructor - Gordon Stellway - Recommend approval of Mr. Stellway to teach the course categories "Real Estate Law Update and Ethics" and "Property Management."
 5. Program of Work FY94
 - a. Evaluation of HREREC and Its Future - Recommend approval of Commissioner Imamura to be appointed to a task force consisting of Commissioners Hirata, Nishikawa and Dew to evaluate HREREC and its future.
 - b. Instructor's Development Workshop - Hawaii Association of REALTORS reports that they will be scheduling their REC co-sponsored IDW in June/July, 1994.
 - c. Annual Report and Quarterly Bulletin - Annual Report will be mailed out shortly. Next Bulletin is targeted for April 1994.
 - d. Education Waiver Administration - Newly revised educational waiver forms are being sent to ASO for printing.
 - e. School Files - Next edition targeted for March, 1994.
 6. Next Meeting: Thursday, March 23, 1994, 9:00 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii 96813

Licensing:

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

Real Estate Brokers

Mary Anne Fitch
Pat Holt dba Pat Holt Properties
Gene Bagley dba Gene Bagley Realty
Roy Y. Yamada
Berman Realty Ltd.
Charles M.Y. Lam
Kamaile Rafalovich
Five Star Properties, Ltd.
Frank C. L'Orange
Anson A. Tripp dba Tripp & Associates
Tooru Hara
Hanalei Land Company, Ltd.

Site Office

Diana Y. Bretz - Pacific Shores

Nikken Corporation - The Bay Club at Waikoloa Beach Resort
Hale Kona Realty, Inc. dba Better Homes and Gardens - The Bay Club at Waikoloa
Beach Resort
Tongg Realty, Inc. - Olaloa, Project III
TNR Development dba Island Pacific Homes - Kekuilani Village IV at Kapolei
Marcus & Associates, Inc. - Aiea Park Place
Pacific Homes - Moanalua Village, Phases I, II, III and IV
Pacific Homes - Na Pali Haweo
Castle & Cooke Homes Hawaii, Inc. - Crescent Lane, Phases I and II
Finance Realty, Ltd. - Palehua Pointe
Schuler Realty/Oahu, Inc. - Westview at Makakilo Heights
West Oahu Realty, Inc. - West Loch Fairways
Maryl Realty, a division of Maryl Development Inc. - 'Iolani
West Oahu Realty, Inc. - Olaloa

Condominium Project Registration - Public Reports Issued January 1994

Pacheco Condominium (Final)
2406 Oahu (Final)
Pu'ukapu Meadows (Final)
2213 Lime Street (Final)
54-229/54-231 Hauula Homestead Road (Final)
Kaholalele Estates (Final)
Parkglen at Waikele (Final)
Hua Nani Agricultural Condominium (Final)
58 Mohala (Final)
Stubberfield Estates (Final)
E-I-E-I-O Farm Enterprises (Final)
Waipake 9 (Final)
Summit at Kaneohe Bay (Final)
28 Maha (Final)
Halelani Village at Puhi, Phase IB (Preliminary)
Maluhia Kuahiwi (Final)
Iao Parkside Phase II (Preliminary)
745 Isenberg (Final)
Puna Hale, Phase I (Final)
Kalawai Hillside (Final)

Chair Nishikawa took the agenda out of order to accommodate those applicants present who desired to make oral presentation to the Commission.

Licensing:

QUESTIONABLE APPLICATIONS

Amado C. Quemado dba Sam's Realty

Mr. Quemado was present to answer any questions the Commission may have regarding his application for sole proprietor.

Mr. Quemado stated that "Sam" is a nickname which he used in the Philippines and

carried with him when he immigrated to Hawaii.

Supervising Executive Officer Kimura informed Mr. Quemado that if the Commission approves his application for sole proprietor along with the tradename he will need to use the full licensed name along with the tradename in any advertisement, business card, etc. When the license is issued, it is issued with both the sole proprietor name and the tradename. The Commission would like to make it clear that Mr. Quemado understands this matter should the Commission approve his application.

Mr. Quemado stated that he understood the information presented by Supervising Executive Officer Kimura.

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

Dona Jean Johnson dba Pandanus Realty

Due to personal information she considered to be confidential, Ms. Johnson requested that her application for real estate sole proprietor be considered in executive session.

Upon a motion by Commissioner Imamura, seconded by Commissioner Kano, it was voted on and unanimously carried to enter into executive session pursuant to Section 92-5(a)(1), "To consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in section 26-9 or both."

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

Supervising Executive Officer Kimura informed Ms. Johnson that if her application for real estate sole proprietor is approved, she will need to use her full licensed name, including tradename, in all advertising.

Ms. Johnson stated that she understands the information presented by SEO Kimura.

Executive Officer Rutkowski informed Ms. Johnson that until the Commission makes a decision on her application, it is still a pending application. Executive Officer Rutkowski asked Ms. Johnson if she is currently engaging in real estate activity.

Ms. Johnson stated that she has opened her office but has not done any sales and has filed for dissolution from Ainalani Properties. She further stated that she has spoken to RES Wong regarding this matter and was informed by RES Wong that there may be a period of time which she may be working without a license. Ms. Johnson stated that she needed to rent the space to get the location she wanted.

Ms. Johnson was asked if she is presently working as a sole proprietor at this time. Ms. Johnson replied in the affirmative.

Executive Officer Rutkowski informed Ms. Johnson that the Commission is aware of an advertisement placed by Dona H. Johnson in the February 21, 1994 Multiple Listing Service.

Ms. Johnson stated that she did place the advertisement which is being referred to.

Chair Nishikawa asked Ms. Johnson if she were advertising prematurely.

Ms. Johnson replied that she understood that this is how it is done. She further stated that when she first began working with Ainalani Properties they would operate for a period of time before they received their approval and assumed that if you haven't received your approval that it would be forthcoming.

Chair Nishikawa asked if Ms. Johnson had any other listings or pending contracts besides the listing which has been brought to the Commission's attention in the February 21st MLS issue been made.

Ms. Johnson replied that currently she has four or five listings and that she has been holding off on doing any contracts until she receives her approval.

Chair Nishikawa informed Ms. Johnson that her assumptions on the real estate application approval process is incorrect.

Ms. Johnson stated that she has been in the real estate market in Hawaii for sixteen years and has been very active. She further stated that she has a very good reputation, has conducted an honest business, is a hard worker and need to get on with her business and has never done anything underhanded. She would like to dissolve her connections to Ainalani Properties. She needs to get on with her life and business. She cannot correct her tax lien without operating a business. She has not tried to deceive anyone, just trying to get on with her business.

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

Thomas Muller

Mr. Muller was present to answer any questions the Commission may have regarding his application for real estate sole proprietor. Mr. Muller acknowledged and waived his right to discuss and present oral testimony on his application in executive session in spite of the nature of issues involved.

Real Estate Specialist Teshima informed the Commission that in 1989 and 1990, Mr. Muller was convicted of DUI and that he has a state and federal tax lien.

Mr. Muller stated that he came before the Commission in 1990. At that time the Commission addressed the DUI issue and approved his application for a real estate salesperson license. The tax lien issue was not addressed in 1990. Mr. Muller further stated that he does have a payment plan which is current and has submitted written information regarding the tax lien.

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

Referral Services, Inc.

C. Scott Bradley and Eileen Luko were present to answer any questions the Commission may have regarding the application for real estate corporation of Referral Services, Inc.

Real Estate Specialist Teshima informed the Commission that Mr. Bradley stated that they had answered a question incorrectly on the application. A written response was submitted by the applicant stating that they should have answered "yes" to the prior complaint question. The person who completed the application was not aware of the complaints. The complaints which were filed were against Ms. Penelope Bradley and Scott Bradley, both of whom are only officers for the corporation.

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

A'ala Honua Realty, Inc.

Mr. Donald Brough was present to answer any questions the Commission may have regarding the real estate corporation application of A'ala Honua Realty, Inc.

Chair Nishikawa questioned whether Mr. Brough would still maintain PAR Management, Inc.

Mr. Brough answered in the affirmative and further stated that A'ala Honua Realty, Inc. is being formed in Hilo and Ms. Patricia Scullary is the principal broker. On the application she answered "no" to the question regarding prior complaints without consulting with him who was on the mainland at the time. The complaint referred to shows "no violation". The purpose for being a director with the corporation is because he is a consultant working with the corporation. The corporation wanted to have three director's in case there was a dispute in-house on voting and would need a third vote. Other than that, he is not active in the corporation at all and has no real estate business

there. Mr. Brough holds no stock in the corporation, is not an officer, strictly a director.

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

Touchstone Properties, Ltd.

Mr. Chuck Whalen was present to answer any questions the Commission may have regarding the request to change the principal office of Touchstone Properties, Ltd.

Real Estate Specialist Wong informed the Commission that the zoning form states that the address is approved with restrictions; "permitted as an accessory office for the purpose of on-site property management of business located therein and not as a general office rental".

Mr. Whalen stated that he is a shareholder and president of the corporation. It was further stated that Touchstone Properties, Ltd. office is currently located at the Kawaiahao Plaza, of which Touchstone Properties, Ltd. and Touchstone Realty Corp. are both located. Touchstone Properties does condominium and commercial management. Touchstone Realty handles real estate sales and rental activities. The intention is to keep Touchstone Realty Corporation at the Kawaiahao Plaza and move Touchstone Properties, Ltd. to the Sand Island Property as a result of the size of the property and requirements of the owner. It is a 250,000 square foot industrial and office space of which the owner has three properties that span from Sand Island Access Road to Puuhale Road. Due to the problems on the property, the owners are requiring an on-site office. The intent of Touchstone Properties, Ltd. is to handle the accounting and administrative functions out of the Sand Island Office. Because the principal broker and himself will be managing the commercial property, they will be in the Sand Island Office more than in the Kawaiahao Plaza office, which is why they would like to change the principal office location.

Real Estate Specialist Wong asked Mr. Whalen if he is aware of the restrictions listed on the zoning form. He further informed Mr. Whalen that if the Commission grants approval of the change of principal office location it would probably be subject to the restrictions listed on the zoning approval.

Mr. Whalen said that he understands the restrictions and further stated that they would be doing accounting services for some other condominiums. They will have computer connections to the other office.

Executive Officer Rutkowski questioned whether they have a CMA registration and if they manage other Associations under Touchstone Properties, Ltd.

Mr. Whalen replied in the affirmative. They will also maintain a branch office at the Kawaiahao Plaza, with the principal office at the Sand Island property.

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

Kokua for Travel Agents

Mr. Donald Blum was present to answer any questions the Commission may have regarding the condominium hotel operator registration of Kokua for Travel Agents.

Condominium Specialist Stone reported that the issue before the Commission is whether or not the condominium project documents for the projects Kokua For Travel Agents desires to operate as condominium hotels meet the requirements of the statute which state that the declarations and bylaws have to specifically allow for transient rentals.

Mr. Blum stated that 444 Nahua has been in existence since May 1976 at which time he was an original purchaser in the building. Mr. Blum rented the condominium out on his own as vacation rentals and continues to. At the time there was a company which rented condominiums called "Kokua for Travel Agents" which was formed in 1975, prior to the building completion. In 1988, Mr. Blum purchased "Kokua for Travel Agents" and has been renting those condominiums which have non-conforming certificates out for that company as vacation rentals.

When Mr. Blum originally purchased the condominiums, the building was marketed and sold as a vacation rental building. Mr. Blum stated that when he purchased the company, everything was in order. As president of the Board of Directors of the condominium association, Mr. Blum was asked if vacation rentals were allowed in 444 Nahua. The Board of Director's voted to seek the legal advice of the Bruce Dinman Corporation. A reply was received from the Bruce Dinman Corporation stating that the declaration does allow for vacation rentals in the building. Two other letter from Dave Silver and Rex Johnson, principal broker in the sale of the building, stating that it was the intention of Hasegawa Komuten (the developer) to promote, market and sell these units as vacation rental apartments.

Mr. Blum further stated that he understands that it wasn't until much later that condominium hotel registration was required. If CHO registration was a requirement at that time, it would have been very easy to change the declaration and bylaws then.

Executive Officer Rutkowski clarified that Mr. Blum is applying to operate condominium hotel units in four separate condominium projects.

Mr. Blum replied that a gentlemen has two units at 444 Nahua and one unit at 2121 Ala Wai, which they will be renting also. 2121 Ala Wai does allow vacation rentals. At another project, Waikiki Lanai's, there is a long term tenant in that rental. During Christmas, the individual rents her unit out as a vacation rental. Presently there is a company that is renting units within the condominium project as vacation rentals. They have the condo hotel certificate and is assuming that the building is qualified for such also. Mr. Blum said that it is not crucial for Kokua to rent Waikiki Lanais as a CHO.

Mr. Blum stated further that Waikiki Sky Tower is another long-term rental which he is willing to give it up.

Executive Officer Rutkowski sought to again confirm with Mr. Blum that the Condo Hotel Operator Registration application listed four separate projects. Mr. Blum answered in the affirmative. On the zoning forms completed by the City and County, it is noted on the zoning form for 444 Nahua that only the units which have an asterisk are

those units which have nonconforming use certificates.

Mr. Blum stated that only those units which have a nonconforming use certificate are being rented on a short term rental basis.

Executive Officer Rutkowski reiterated that Mr. Blum is not concerned with Waikiki Skytower or Waikiki Lanai and that for 2121 Ala Wai, the declaration and the bylaws allow for the transient rental, and that Mr. Blum's concern today is for 444 Nahua.

Mr. Blum replied that the information presented by the Executive Officer is correct. He further stated that he owns nearly 20 condominiums in the building and is concerned with his investment along with others. Those who rent their condo's through Kokua For Travel Agents on a vacation rental basis depend on the income. The units are eventually being sold off for long-term rental or owner occupied.

Executive Officer Rutkowski asked Mr. Blum how they are renting the 27 units.

Mr. Blum replied that they are renting those with the nonconforming use certificates on a vacation rental basis.

Executive Officer Rutkowski asked Mr. Blum if he has considered engaging the services of a Condominium Hotel Operator who is currently registered?

Mr. Blum replied that they also have as part of their company, KTA Realty, and a broker who works for them. The real estate company is non producing, it is just open to keep them legal. Eventually they would like to close down the real estate portion of the company which does not sell real estate.

Supervising Executive Officer asked if they are handling long-term rentals at 444 Nahua, which are over 30 days, are they doing it for others, and if so, are they are being compensated.

Mr. Blum replied that they do long-term rentals out of 444 Nahua and others which are more than 30 days and yes, they are getting compensated.

Supervising Executive Officer asked if the long term rentals were being done under Kokua for Travel Agents, Inc. which does not have a broker's license.

Mr. Blum replied that the long-term rentals are being handled through Kokua for Travel Agents Inc. Furthermore, they are affiliated with KTA Realty, Inc. which is part of Kokua for Travel Agents and they do have a real estate broker working for them.

Supervising Executive Officer Kimura informed Mr. Blum that the real estate licensing laws requires a real estate broker license of any person, corporation or partnership which offers to rent or lease real estate. Anything 30 days and beyond would require a real estate brokers license. If the Commission does approve the CHO registration, broker exempt, Kokua for Travel Agents will not be able to do any rentals for any units 30 days or longer.

Upon a motion by Commissioner Dew, seconded by Commissioner Lee, it was voted on

and unanimously carried to take the matter under advisement.

Management Specialists, Inc.

Mr. Rodney Chai was present to answer any questions the Commission may have regarding the condominium managing agent annual re-registration application of Management Specialists, Inc.

Mr. Chai stated that he has submitted copies of the requested information prior to the meeting for the Commissions review.

Chair Nishikawa thanked Mr. Chai for appearing at the meeting.

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

Restoration of Forfeited License

Riette R. Glavor

Commissioner Imamura was excused due to a conflict of interest.

Ms. Glavor stated that she was present to answer any questions the Commission may have regarding her application for restoration of forfeited real estate license.

Ms. Glavor stated that she made an honest error. She explained that she had a child in November of 1992, following that went through recuperation and child care. At that time her only concern was that of herself and her baby. She did not pay attention to real estate at all during the months of November and December. Once she got back into the real estate field, she was unaware that she did not pay her renewal fee. She wanted to obtain a brokers license and applied for a broker experience certificate at which time she was informed that her license was forfeited. At first she thought that was an error, but then checked through her records and realized that she did not renew her license and that it was in her error. Some of the transactions which she listed may have taken place in 1992 but her commissions were received in 1993. She further stated that she has always paid her fees on time.

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

Commissioner Imamura returned to the meeting.

Chair Nishikawa recessed the meeting at 10:50 a.m.

Chair Nishikawa reconvened the meeting at 11:05 a.m.

Executive Session:

Upon a motion by Commissioner Kano, seconded by Commissioner Lee, it was voted on and unanimously carried to enter into executive session pursuant to Section 92-5(a)(1), "To consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in section 26-9 or both."

At this time the Commission members discussed the matters which have come before them for decision making.

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

Licensing:

Restoration of Forfeited License

Robert K. Israel	Broker
Stanley R. Alapa	Broker
Noriko H. Burke	Salesperson
Daniel K.M. Ching	Salesperson
Patricia Y. Ching	Salesperson
Jonie Lyn Lanosa	Salesperson
Douglas Charles Smith	Salesperson
Steven K. Wong	Salesperson
Marden J. Manawis-Molina	Salesperson
Sandra H.E.O. Oguma	Salesperson
Janice K. Tokuno	Salesperson

After a review of the information submitted by the applicants, Commissioner Kano moved that restoration be approved upon submitting evidence of successfully completing a Commission-approved real estate course. Commissioner Lee seconded the motion. The motion was voted on and unanimously carried.

Riette R. Glavor Salesperson

After a review of the information submitted and presented by the applicant, Commissioner Kano moved that restoration be approved upon submitting evidence of successfully completing a Commission-approved real estate course. Commissioner Kuriyama seconded the motion. The motion was voted on and carried. Commissioner Imamura abstained.

Alan P. Lennard Salesperson
Jane E. Iehl Salesperson
David D. Hill Salesperson

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

Questionable Applications

Kathleen "Kathy" N.T. Hagman

After a review of the information submitted by the applicant, Commissioner Kano moved to approve the application for broker experience certificate and equivalency to one closed listing. Commissioner Kuriyama seconded the motion. The motion was voted on and unanimously carried.

Ken G. Hagman

After a review of the information submitted by the applicant, Commissioner Dew moved to approve the application for broker experience certificate and equivalency to one closed listing. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Daniel A. Gussin

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

Henri Francois Cinq-Mars

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

Rosalia Y.K.C. Chan

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

Ernesto Yapit Yadao dba Executive Investors Realty

After a review of the information submitted by the applicant, Commissioner Kano moved to approve the application for real estate sole proprietor license. Commissioner Imamura seconded the motion. The motion was voted on and unanimously carried.

Amado C. Quemado dba Sam's Realty

After a review of the information submitted and presented by the applicant, Commissioner Dew moved to approve the application for real estate sole proprietor. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Dona Jean Johnson dba Pandanus Realty

After a review of the information submitted and presented by the applicant, Commissioner Kano moved to approve the application for real estate sole proprietor. Commissioner Lee seconded the motion. The motion was voted on and unanimously carried.

Edward Leao dba Leao & Leao Real Estate

After a review of the information submitted by the applicant, Commissioner Lee moved to approve the application for real estate sole proprietor and deny the tradename of Leao & Leao Real Estate. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried. It was further noted that if a tradename application is subsequently submitted in which "& Leao" is deleted, then it is delegated to staff to approve such a tradename.

Thomas Muller

After a review of the information submitted and presented by the applicant, Commissioner Kano moved to approve the application for real estate sole proprietor. Commissioner Lee seconded the motion. The motion was voted on and unanimously carried.

Referral Services, Inc.

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

Rich & Company, Inc., Real Estate Services

After a review of the information submitted by the applicant, Commissioner Lee moved to approve the application for real estate corporation, Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

A'ala Honua Realty, Inc.

After a review of the information submitted and presented by the applicant, Commissioner Imamura moved to approve the application for real estate corporation, Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Century 21 Kahala Hale, Inc.

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

Touchstone Properties, Ltd.

After a review of the information submitted and presented by the applicant, Commissioner Imamura moved to approve a conditional real estate broker license. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Certified Management, Inc.

After a review of the information submitted by the applicant, Commissioner Lee moved to approve the application for condominium managing agent annual re-registration, subject to verification that a fidelity bond relating to the name schedule is complete. Commissioner Kuriyama seconded the motion. The motion was voted on and unanimously carried.

Management Specialists Company

After a review of the information submitted and presented by the applicant, Commissioner Kano moved to approve the application for condominium managing agent annual re-registration. Commissioner Dew seconded the motion. The motion was voted on and unanimously carried.

Property Network, Ltd.

After a review of the information submitted by the applicant, Commissioner Dew moved to deny the application in that all efforts to obtain a statutorily acceptable fidelity bond as required by §467-30(b)(3), H.R.S., has not been exhausted by the applicant. Commissioner Kuriyama seconded the motion. The motion was voted on and unanimously carried.

Kokua For Travel Agents, Inc.

After a review of the information submitted and presented by the applicant, Commissioner Lee moved to defer the application for condominium hotel operator, broker exempt, until the Commission receives the Attorney General's recommendation as to condominium hotel use per declaration and bylaws of condominium projects in question, then delegate to staff to process application based on the Attorney General's recommendation.

Aloha Commercial Services, Inc.

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

Minutes:

Upon a motion by Commissioner Kano, seconded by Commissioner Imamura, it was voted on and unanimously carried to approve the minutes of the January 28, 1994 Real Estate Commission meeting as circulated.

Next Meeting:

Thursday, March 24, 1994
9:00 a.m.
Kuhina Nui Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street
Honolulu, Hawaii 96813

Adjournment:

Chair Nishikawa adjourned the meeting at 12:00 p.m.

Reviewed and approved by:

Christine Rutkowski
Executive Officer

Date