

REAL ESTATE COMMISSION
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by Section 92-7(b), Hawaii Revised Statutes.

Date: Friday, September 26, 1997

Time: 9:00 a.m.

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

Present: Alvin Imamura, Chair
Carol Mon Lee, Vice Chair
Charles Aki, Hawaii Member
Michael Ching, Kauai Member
Alfredo Evangelista, Public Member
Mitchell Imanaka, Oahu Member
Helen Lindemann, Oahu Member
John Ohama, Oahu Member

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

Haunani Alm, Special Deputy Attorney General
Steven Gilbert, Hawaii Real Estate Research and Education Center
Rodney L. Gilliland
Joseph M. Przygodzinski, Mauna Loa Village Resort, Inc.
Robert E. Warner, Attorney for Mauna Loa Village Resort, Inc.
Nicki Thompson, Hawaii Association of REALTORS
Christopher Harder
Edward Tsuji, Attorney for Christopher Harder

Excused: Nora Nomura, Public Member

Call to Order: The Chair called the meeting to order at 9:08 a.m., at which time quorum was established.

Chair's Report: The Chair offered condolences on behalf of the Commission, staff and himself to Commissioner Ching on the passing of his father.

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

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

6. Licensing -Questionable Applications

- a. Suzanne Hills
- d. Rodney Gilliland
- 8. Recovery Fund Report
 Ross Berg, et. al. v. Edna Nakasato, et. al., Supplemental Affidavit of Alan H. Tuhy in Further Support of Plaintiffs' Motion for Order Directing Payment Out of Real Estate Recovery Fund

Additions to the Agenda

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

- 9. Committee Reports
 - b. Education Review Committee - Law Update and Ethics 1997/98 - Final Draft

Licensing and
 Registration -
 Ratification:

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

<u>Brokers - Corporations and Partnerships</u>	<u>Effective Date</u>
Hawaii Creative Realty, Inc.	08/06/97
Banyan Properties, Inc.	08/28/97
June J. Delany	08/25/97
 <u>Brokers - Sole Proprietor</u>	 <u>Effective Date</u>
Gerald Y. Y. Chang	07/31/97
Max Isaac	08/12/97
Bettina W. J. Lum	08/25/97
Diane M. Anderson	08/29/97
 <u>Tradename</u>	 <u>Effective Date</u>
Operating & Managing Services, Inc.	08/18/97
Properties Plus Maintenance Company	
Ronald Francis Gilligan	09/02/97
R.F. Gilligan Realty	
Richard Kealii Derrickson	08/29/97
Real Estate MVP Lanai Realty	
Andres Albano, Jr.	09/02/97
Homes Kiest	
 <u>Site Office</u>	 <u>Expiration Date</u>
Coldwell Banker Pacific Properties	03/11/98
Na Pali Haweo	
Gentry Realty, Ltd.	04/14/98
Fiesta Del Verde by Gentry	
Maui Pacific Realty Partners, Inc., Kahana Ridge Realty	03/18/98
Kahana Ridge	
Savio Realty, Ltd., Better Homes and Gardens	03/15/98
Queen Emma Gardens	
Schuler Realty/Oahu, Inc.	04/04/98
Country Club Village at Salt Lake, Buildings 4 and 5	
Real Estate Magic	03/30/98
Piikoi Hale	
Gibraltar Pacific Realty, Inc., The Prudential West Hawaii Realty	03/18/98
Sunpoint, Phases I and II	
Gentry Realty, Ltd.	02/18/98
Coronado - Phases C and E	

Carol Ball, Inc., Carol Ball & Associates, Realtors The Cliffs at Kahakuloa	03/17/98
Marcus & Associates, Inc. Royal Ridge	02/21/98
Sofos Realty Corporation The Hawaiian Princess at Makaha Beach	03/02/98
Hannon Realty, Ltd. Kuhio Banyan Club	02/18/98

<u>Education Waiver Certificate</u>	<u>Expiration Date</u>
Sharon D. Sadler	08/26/98
James Herbert Marovish	09/02/98
Mark Douglas Toothacre	09/02/98
Lee Purser	09/15/98
Zackary Mont Taylor	09/16/98
Amber Marie Gomez	09/16/98
Teresa Gragert-Kelsch	09/16/98

<u>Real Estate Broker Experience Certificate</u>	<u>Expiration Date</u>
Christine M. Gallagher	08/25/98
Allan F. Diemert	08/25/98
Andrey M. Chan	08/26/98
David D. Lavarias	08/28/98
Ronie H. Lando-Brown	09/02/98
Dennis R. Lapinski	09/02/98

<u>Real Estate Broker (upgrade)</u>	<u>Effective Date</u>
Todd E. Hart	08/25/97
Kelfred K. C. Chang	08/13/97
Allen S. Fahrni	08/19/97
Diane M. Anderson	08/20/97
Mark S. Johnson	08/20/97

Licensing -
 Questionable
 Applications:

Mauna Loa Village Resort Inc.

Mr. Joseph Przygodzivski, principal broker for Mauna Loa Village Resort, Inc. and Robert Warner, attorney for Mauna Loa Village Resort, Inc. was present to answer any questions the Commission may have regarding their condominium hotel operator registration application.

Mr. Przygodzivski stated that Mr. Stevens regrets not being able to attend today's meeting. He had a pre-arranged a trip to show off his new child to relatives on the mainland.

Mr. Warner stated that he was representing the applicant, Mauna Loa Village Resort, Inc. and that the thrust of their application was to make full disclosure. He stated that in 1986, Mr. Stevens ran a number of businesses in Colorado. He had a temporary registration in Colorado, however, he chose not to renew the registration due to the economic conditions at that time. Mr. Stevens was told by the Director of the Regulatory Agency in Colorado that they did not have records going back over ten years. He was also informed by the State of Colorado that what happened in 1986 would not prevent him from being licensed again in Colorado. The State of Colorado did not enter an administrative order against Mr. Stevens or his company.

Mr. Stevens was the president of All Seasons Resorts and filed an application with the State of Arizona. He answered the question about any prior complaints in the negative based on the fact that the no administrative order was issued by the State

of Colorado. Arizona disagreed and determined that he had failed to disclose information. In talking with attorneys and the Commission in Arizona, Mr. Stevens is in good standing with the State of Arizona. All Seasons Resorts was purchased by Signature Resorts.

Mr. Warner was asked what Mr. Stevens' current status with the State of Colorado. Mr. Warner informed the Commission that Mr. Stevens had a temporary registration that he chose not to make permanent. He was granted a temporary registration in May 1986 and he had until June 1986 to meet the terms of the temporary registration in order to make it permanent. Mr. Stevens had made arrangements with his lender in lieu of foreclosure to transfer the assets from his company so there was no reason for him to make the registration permanent because he no longer owned the property. The project was no longer economically viable. Mr. Stevens would not have been able to get a permanent registration. The lender registered the property in its name in July 1986.

Mr. Przygodzivski stated that he had spoken to Commissioner Reagan late last month and was told that Colorado did not have much written materials because their records were destroyed. Mr. Reagan did recall the situation and had said that he could provide a copy of the minutes, but the information contained in the minutes may not be conclusive. Mr. Przygodzivski said that Mr. Reagan had mentioned that Mr. Stevens would be welcomed back to do business in Colorado should he wish to reapply.

Mr. Warner and Mr. Przygodzivski were asked about the status of the lawsuit. When Signature Resorts bought the All Seasons Resort, there were other bidders who filed a lawsuit against All Seasons Resort and Signature, claiming that there had been a breach of understanding. Mr. Stevens is not the principal party in the lawsuit. Mr. Warner stated that Signature Resorts has indemnified Mr. Stevens of all allegations against him. The lawsuit is still pending, but Mr. Stevens has been indemnified.

Mr. Warner and Mr. Przygodzivski were asked about the denial of the time share registration in Colorado for the corporation. Mr. Przygodzivski stated that Mr. Stevens had abandoned the time share renewal and he did not show up for the hearing. As a result, they denied his request for a permanent license. He does not have any records to show that it was denied. Mr. Stevens has tried his best to get as much information as possible, but nothing was available.

They were asked if they would be willing to provide the portion of the minutes if it were available. They said that they could try to get it.

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

The Deputy Attorney General asked Mr. Warner and Mr. Przygodzivski about the complaint which was filed with RICO. Mr. Przygodzivski stated that the records had been destroyed. Mr. Przygodzivski stated that he had an accounting problem and failed to account for funds. Mr. Przygodzivski stated that he was not very astute with his record keeping and that he did everything that he could to satisfy the person who claimed that he had given a false statement. Since then, he has always hired someone else to do his accounting. He also stated that it was his only complaint in 20 years. Mr. Przygodzivski was asked if it was for moneys he received in advance or moneys owed. He stated that he did everything he could to

make it right. He stated that the two people who initially made the complaint still come to see him.

The judgments entered into against Mr. Stevens were business related. It was after the fact. He had some contractors who were left with liens which were never paid off. The judgments were for various amounts.

Mr. Warner stated that the business which was run by Mr. Stevens failed. A claim was filed against him and his company. Many of the companies who held the judgments are no longer in business. Mr. Stevens had run a credit report which did not disclose any outstanding judgments in Colorado. Established lending institutions in Hawaii have granted him sizable mortgage loans on houses. He cannot say for sure that the judgments have been satisfied. He cannot search them out because the creditors are no longer in business. His credit report is clean and does not show outstanding judgments. A copy of the Colorado lien releases were provided.

Mr. Przygodzinski was asked if there were any other problems for which they have not provided information. Mr. Przygodzinski stated that he does not have anything, to the best of his knowledge.

Mr. Warner requested that the Commission put this matter in proper perspective and that the events occurred eleven years ago. Mr. Stevens was involved in projects which were not economically viable. Mr. Stevens settled with the bank. Mr. Stevens could obtain an affidavit from Colorado's Deputy Director if necessary.

It was voted on and unanimously carried to take this matter under advisement.

Rodney L. Gilliland

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

Rodney L. Gilliland was present to request the Commission's reconsideration of its decision to deny his real estate broker's experience certificate application. Mr. Gilliland was asked if he wished to have his application considered in executive session. Mr. Gilliland declined the offer.

Mr. Gilliland distributed copies of his September 26, 1997 letter, two listing agreements and his Certificate of Completion for the real estate broker's prelicensing course to the Commission for their review.

Mr. Gilliland stated that he had taken four courses in college. Three were in real estate and one was a marketing course. Mr. Gilliland was requesting reconsideration of the Commission's previous decision.

Mr. Gilliland stated that he came to Hawaii three years ago. He was recruited to be the Vice President of Marketing for C. Brewer Homes. He did not initially need a real estate license because he was involved in marketing. He became licensed as a real estate salesperson. He provided information and included information on the closed escrows that he was responsible for. Mr. Gilliland did not represent the buyer. Since his first application, he was laid off from C. Brewer because there was a reduction in the work force. He is currently with Valley Isle Realty. He stated that it is not his intent to go into general real estate. Mr. Gilliland stated that it appears that unless you are involved in general real estate, it is difficult to sit for the real estate broker's examination because you would not have the real estate transactions. Mr. Gilliland stated that he is respectfully asking for reconsideration now that he has two co-listed properties and has two others waiting to be signed and he has passed the real estate broker's prelicensing course. Real Estate Specialist Teshima clarified that Mr. Gilliland was requesting an equivalency to six closed transactions, three of which are sales contracts or commercial or industrial leases closed escrow and three of which are listing contracts or commercial

or industrial listings closed escrow.

Mr. Gilliland stated that he was actively pursuing a job that mirrors his career. Mr. Gilliland stated that he had run a general brokerage company in California in 1992. Mr. Gilliland stated that he completed 12 units of accredited courses at the university.

Mr. Gilliland was asked what his responsibilities were at C. Brewer Homes. Mr. Gilliland stated that he ran the sales force, was involved in marketing and training and signed the sales contracts. He stated that he was not in the sales office selling.

Mr. Gilliland was asked if the sales contracts were reviewed by the principal broker or broker-in-charge. He stated that the contracts were funnelled through the principal broker. Mr. Gilliland's experience statement, which both he and his principal broker signed, stated that he had completed three closed sales in which the brokerage firm represented the buyer. Mr. Gilliland stated that the principal broker had filled out the form and had submitted a letter of explanation along with the form. Mr. Gilliland stated that there was another sheet that was submitted with all of the closed escrows which showed his involvement.

Mr. Gilliland stated that they do represent the buyer. Mr. Gilliland also stated that if the buyers bring in a broker, C. Brewer Realty will pay a referral fee to the buyer's broker. When the buyer comes alone, they have a dual agency agreement with the buyer. They represent the buyer and the developer.

Mr. Gilliland stated that he was granted a waiver based on his being licensed in the State of California.

Mr. Gilliland stated that his career is not in real estate, but it is in new home sales. He stated that he has not sat at open houses until recently.

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

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

Committee Reports:

Laws and Rules Review Committee

Upon a motion by Commissioner Ching, seconded by Commissioner Lee, it was voted on and unanimously carried to accept the report of the September 15, 1997 Laws and Rules Review Committee meeting as follows:

1. **Accept** the minutes of the July 9, 1997 and the August 13, 1997 Laws and Rules Committee meeting as circulated.
2. HREREC Report
Real Estate Seminars - HREREC suggested as the next topic for the 1998 seminar, Real Property Disclosures. The target date for the seminar will be May or June 1998. The method of delivery still needs to be determined.
3. Program of Work - Neighbor Island Outreach - The October Standing Committee meetings will convene on Wednesday, October 8, 1997, at the Aston Wailea Resort, Wailea, Maui, as follows:
9:00 a.m. Laws and Rules Review Committee
10:30 a.m. Education Review Committee
1:30 p.m. Condominium Review Committee
4. Special Issues
Request to Print REC Information - Jeffrey S. Grad and HICLE - **Recommend approval** of Mr. Grad's request to print the Commission's list of important

telephone numbers and addresses in the Hawaii Commercial Real Estate Manual, with the caveat that the information listed is subject to change without notice.

5. Budget and Finance Report - RERF - **Recommend acceptance** of the Real Estate Recovery Fund Report for June, 1997.
6. Next Meeting: Wednesday, October 8, 1997
9:00 a.m.
Aston Wailea Resort
3700 Wailea Alanui
Wailea, Maui

Education Review Committee

Upon a motion by Commissioner Aki, seconded by Commissioner Ching, it was voted on and unanimously carried to accept the amended report of the September 15, 1997 Education Review Committee meeting and deferring acceptance of item 5.a. for further discussion, as follows:

1. Minutes of May 7, June 17 and August 13, 1997 Meetings - **Accept.**
2. HREREC Report
 - a. Broker Curriculum and Resources - Drafts of modules five and six distributed. The draft of the entire course was to have been submitted on August 13, 1997. Dr. Ordway to contact Senior Real Estate Specialist to arrange a new schedule for the submission of the remaining modules.
 - b. Continuing Education Core Course - Third draft delivered to REB on August 25, 1997. REB comments to HREREC by September 18, 1997. HREREC to finalize and seek approval of draft at September 26, 1997 REC meeting.
 - c. Continuing Education Elective Course - REB comments to first draft of Seller Disclosure course delivered to HREREC on August 29, 1997. Dr. Ordway to contact Senior Real Estate Specialist to arrange a schedule for the submission of the second draft.
 - d. Examination - Update report for ASI to include 1997 legislation. REB awaiting draft from HREREC.
3. Continuing Education Administration
 - a. 1997-98 Ratification List of Continuing Education Providers, Instructors, and Courses - **Recommend approval.**
 - b. Course Application - "Representing the Foreign Client" - **Recommend approval** under course categories Property Ownership & Development and Real Estate Law.
4. Prelicensing Education Administration, Curriculum, Schools, Instructors, and Waiver
 - a. Special Issues - Request to use REC Publication in Book by Madge Walls - **Defer** to October 8, 1997 meeting upon request from Ms. Walls.
5. Licensing Examination
 - a. ASI Request to Increase Fees - Based on Deputy Attorney General's recommendation, contract to be amended to raise test fee from \$50 to \$65 effective January 1, 1998 for one year. Deputy Attorney General to provide authority for requiring bidding process for contract revision. **Recommend approval.**
 - b. Uniform Section Test Development in Philadelphia, November 7-9, 1997. **Recommend approval** for Supervising Executive Officer to attend and ERC Chair and Vice-Chair to serve as alternates.
 - c. Uniform Section Waiver - Specialist Wong to prepare draft of proposal, for Commissioners review, based on the following:
-- Equivalency is a recognition of the uniform section taken in

- some other jurisdiction with a one year limit on how long ago the exam was taken, consistent with the Education Waiver.
 - Must be current and active in another jurisdiction.
 - Candidates do not need to pass both parts of the exam at the same time.
 - Pros and Cons of candidates taking the exam in Hawaii only vs. another State which ASI serves.
6. Program of Work FY98 - Neighbor Island Outreach - October 8, 1997, Wailea, Maui.
 7. Real Estate Specialist of the Day and Licensing Examination Monitoring-Schedule for Joint Specialist of the Day and examination monitoring:
 - 11/07/97 Regulated Industries Complaints Office
1063 Lower Main Street, Ste. C-216
Wailuku, Maui
 - 11/08/97 Maui (Exam Monitoring)
 8. Budget and Finance Report - June 1997 REEF Report - **Recommend acceptance.**
 9. Next Meeting: Wednesday, October 8, 1997, 10:30 a. m.
Aston Wailea Resort
3700 Wailea Alanui Drive
Wailea, Maui

1997/98 Core Course Law Update and Ethics Update - Upon a motion by Commissioner Lindemann, seconded by Commissioner Aki, it was voted on and unanimously carried to accept the 1997/98 Core Course Law Update and Ethics subject to final review of Commission members Aki and Lindemann and discussion with staff and HREREC.

Condominium Review Committee

Upon a motion by Commissioner Evangelista, seconded by Commissioner Aki, it was voted on and unanimously carried to accept the amended report of the September 15, 1997 Condominium Review Committee meeting as follows:

1. **Accept** the minutes of the June 17, 1997 and July 9, 1997 Condominium Review Committee meetings.
2. HREREC Report
 - a. Hawaii Condominium Bulletin - Third bulletin completed and being printed for distribution.
 - b. Board of Director's Guide -- Guide to Condominium Living - have received comments from REB on the May Draft and will be submitting redraft for the October CRC meeting. Fair Housing - 1st written draft #1 dated 9/4/97 entitled "Anti-Discrimination in Hawaii Condominiums" distributed at the September 15, 1997 meeting for REB comments. Second redraft is targeted for distribution at the November CRC meeting.
3. Condominium Governance and Management.
 - a. AOA Registrations Issued Effective Dates through September 3, 1997 for the 1997 Interim Registration - **Recommend approval.**
 - b. AOA Registrations Issued Effective Dates through September 3, 1997 for the 1997-1999 Registration - **Recommend approval.**
4. Condominium Project Registration, Public Reports, and Limited Equity Housing Cooperatives
 - a. CPR Registration, Public Reports, Extensions Issued- **Recommend approval** to ratify issuance of effective dates for public reports and extensions for the month of August, 1997 as amended.
 - b. Public Report Changes and Disclosure Abstracts - Pursuant to Subchapter 5 of Title 16, Chapter 201, Hawaii Administrative Rules - **Recommend approval** of the following informal, non-binding

interpretation for informational and explanatory purposes only:

- 1) §514A-41, HRS, require that when circumstances occur which would render the information contained in the public report misleading to purchasers in any material respect, the developer shall stop all offers of sales and sales, include the updated information in a supplementary public report and comply with all other requirements of §514A-41, HRS.
 - 2) Unless otherwise directed by the Real Estate Commission, information required to be included in a disclosure abstract and in any amendments to the disclosure pursuant to §514A-61, HRS, and §16-107-10, HAR, is limited to the nature and type of information specifically enumerated in these sections.
 - 3) §514A-41, HRS, requires the developer of **One Kalakaua Senior Living, Registration No. 2881** to include the proposed changes to the public report, specifically the reassignment of the parking stalls (a limited common element), and the special use restriction regarding number of occupants through a supplementary public report pursuant to §514A-41, HRS. Failure to include the proposed changes in a supplementary public report renders the information contained in the current public report misleading to purchasers in material respects.
 - 4) Real Estate Commission directs the developer of **Nuuanu Parkside, Registration No. 2267** pursuant to §514A-41, HRS, with only two remaining apartments for sale, to include the information regarding the Association's lawsuit filed against the developer et. al in Civil No. 97-2218-05 be included in an amended disclosure abstract. The information about the alleged building's defective air conditioning system may be included under the enumerated information about warranties pursuant to §514A-61(a)(3), HRS.
5. Program of Work, FY98
 - a. Interactive Participation with Organizations - CAI's 43rd National Conference - **Recommend deferring** participation in the CAI's 43rd National Conference. **Further recommend** sending two representative to the next CAI Conference in Spring '98 subject to the availability of funds and department approval.
 - b. Neighbor Island Outreach - October 8, 1997, 1:30 p.m., Aston Wailea Resort, Wailea, Maui, Condominium Review Committee Meeting.
 6. CMEF Budget and Finance Report - **Recommend acceptance** of the Condominium Management Education Fund Budget and Finance Report covering the period ending June 30, 1997.
 7. Next Meeting: Wednesday, October 8, 1997
1:30 p.m.
Aston Wailea Resort
3700 Wailea Alanui Drive
Wailea, Maui

Condominium Bulletin - The Fall 1997 issue of the Hawaii Condo Bulletin was mailed out to the AOAOs and the CMAs.

Executive Session:

Upon a motion by
Commissioner Lee,
seconded by
Commissioner
Evangelista, 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;".

The Chair was excused from the meeting due to a conflict of interest during the deliberations of the applications for Suzanne Hills, Kulamanu Homes, Ltd. dba Kulamanu Realty and Rodney Gilliland. Vice Chair Lee presided over the meeting during those deliberations.

Upon a motion by Commissioner Ching, seconded by Commissioner Aki, 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 10 a.m., to discuss and deliberate on the following adjudicatory matters, pursuant to Chapter 91, HRS:

Christopher C. Harder, REC-LIC-96-2

Christopher C. Harder and his attorney, Edward Tsuji, were present to give oral arguments on the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order. The Special Deputy Attorney General was present to represent the State in support of the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order.

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

Abraham W. H. Lee, REC-LIC-96-7

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

Michelle F. Kahele, REC-LIC-97-1

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

Christopher C. Harder, REC-LIC- 96-2

Upon a motion by Commissioner Ching, seconded by Commissioner Evangelista, it was voted on and carried to accept the Hearings Officers Findings of Fact, Conclusions of Law and Recommended Order and to not accept the Written Exceptions to the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order, pursuant to §§16-201-40(a) and 16-201-44, HAR.

Following the Commission's review, deliberation and decision in this matter, pursuant to Chapter 91, HRS, the Chair announced that the Commission was reconvening its scheduled meeting at 10:45 a.m., pursuant to Chapter 92, HRS.

Recess: The Chair recessed the meeting at 10:45 a.m.

Reconvene: The Chair reconvened the meeting at 11:05 a.m.

Licensing - Restoration of
Forfeited License:

Donna Mae Brown

After a review of the information submitted by the applicant, Commissioner Lee moved to approve restoration upon applicant's successfully passing the real estate broker's licensing examination. Commissioner Ching seconded the motion. The motion was voted on and unanimously carried.

Delegation to staff - Upon a motion by Commissioner Ching, seconded by Commissioner Lindemann, it was voted on and unanimously carried to delegate the processing of restoration applications to staff as follows:

Restoration applications over 1 year and under 2 years. Provided the applicant has met all ministerial requirements, specifically the submission of the completed application form, application fee, proof of completing CE hours for the prior license biennium, staff to notify the applicants of their options:

1. Complete the prelicense course for the level of license forfeited by the end of six months from the date the complete application is received by the Licensing Branch (for example, complete application received on October 3, 1997, course must be completed by April 30, 1998) and submission of course completion certificate, delinquent and penalty fees, original continuing education certificates and a change form if restoring to an active status within 30 days of completion; staff is authorized to accept the course completion certificate, delinquent fees, penalties, other required documents and process restoration application to completion; or
2. Application to be reviewed during a regular Commission meeting; or
3. Applicant is not required to restore a forfeited license. The applicant can begin the licensing process all over again by successfully completing the real estate salesperson's prelicensing course, passing the salesperson's licensing examination and submitting a complete application with all documents and fees within 90 days from the date of passing the examination.

Restoration applications over 2 years. Provided the applicant has met all ministerial requirements, specifically the submission of the completed application form, application fee, proof of completing CE hours for the prior license biennium, staff to notify the applicants of their options:

1. Successfully pass the licensing examination for the level of license forfeited by the end of six months from the date the complete application is received by the Licensing Branch (for example, complete application received on October 3, 1997, exam must be passed by April 30, 1998) and submission of the passing score report, delinquent and penalty fees, original continuing education certificates and a change form if restoring on active status within 30 days of passing the exam; staff is authorized to issue an educational waiver and broker experience certificate as applicable and accept the score report, delinquent fees, penalties, other required documents and process the restoration application to completion; or
2. Application to be reviewed during a regular Commission meeting; or
3. Applicant is not required to restore a forfeited license. The applicant can begin

the licensing process all over again by successfully completing the real estate salesperson's prelicensing course, passing the salesperson's licensing examination and submitting a complete application with all documents and fees within 90 days from the date of passing the examination.

Executive Session:

Upon a motion by Commissioner Lee, seconded by Commissioner Ching, it was voted on and unanimously carried to enter into executive session, pursuant to Section 92-5(a)(4), HRS, "To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities and liabilities;".

Upon a motion by Commissioner Aki, seconded by Commissioner Ching, it was voted on and unanimously carried to move out of executive session.Real Estate Recovery Fund Report:

Ross Berg, et al., v. Edna Nakasato, et al., Third Circuit Court, Civil No. 96-271

Upon a motion by Commissioner Aki, seconded by Commissioner Evangelista, it was voted on and unanimously carried to approve payment of \$50,000 from the Real Estate Recovery Fund, from the account of Edna Nakasato. Payment to be made to the client trust account of Alan H. Tuhy, Esq. The judgment is to be assigned to the Real Estate Commission, with priority, in the amount of \$50,000 plus interest.

Committee Reports:

Education Review Committee

Licensing Examination - ASI Request to Increase Fees

Upon a motion by Commissioner Aki, seconded by Commissioner Ching, it was voted on and unanimously carried to approve subject to further review by staff with PVL subject to reporting material information at the next Education Review Committee meeting.

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

Licensing - Questionable Applications:

Suzanne Hills

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

Kulamanu Homes, Ltd. dba Kulamanu Realty

After a review of the information submitted by the applicant, Commissioner Ching moved to approve the real estate corporation application of Kulamanu Homes, Ltd. dba Kulamanu Realty. Commissioner Lindemann seconded the motion. The motion was voted on and carried.

Rodney L. Gilliland

After a review of the information presented by the applicant and upon the advice of the Deputy Attorney General, Commissioner Lindemann moved to approve Rodney Gilliland's request for reconsideration. Commissioner Ching seconded the motion. The motion was voted on and carried.

After a review of the information presented by the applicant, Commissioner Lindemann moved to defer decision making on its merits and requests that Mr. Gilliland submit complete copies of the transactions for Lake, Enomoto and Matsui, as listed on the Experience Certification Statement, including the dual agency disclosure, pursuant to Section 16-99-3.1, HAR. Commissioner Ching seconded the motion. The motion was voted on and carried.

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

Mauna Loa Village Resort Inc.

After a review of the information presented by the applicant, Commissioner Ching moved to defer decision making on this matter pending receipt of further documents. Commissioner Evangelista seconded the motion. The motion was voted on and unanimously carried.

EO's Report:

Minutes of Previous Meetings

Upon a motion by Commissioner Aki, seconded by Commissioner Evangelista, it was voted on and unanimously carried to approve the minutes of the July 24, 1997 and the August 29, 1997 Real Estate Commission meetings as circulated.

Next Meeting:

Friday, October 24, 1997
9:00 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Adjournment:

With no further business to discuss, the Chair adjourned the meeting at 11:35 a.m.

Reviewed and approved by:

Christine Rutkowski, Executive Officer

October 24, 1997

Date