REAL ESTATE COMMISSION

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

MINUTES OF MEETING

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

Date:	Tuesday, October 30, 2001
<u>Time:</u>	9:00 a.m.
<u>Place:</u>	Kapuaiwa Room HRH Princess Victoria Kamamalu Building 1010 Richards Street, Second Floor Honolulu, Hawaii
<u>Present:</u>	John Ohama, Chair (Early Departure) Michael Ching, Vice Chair Charles Aki, Member Patricia Choi, Member Mitchell Imanaka, Member Iris Okawa, Member Peter Rice, Member
	Calvin Kimura, Supervising Executive Officer Alan Taniguchi, Executive Officer Lorene Arata, Real Estate Specialist Cynthia Yee, Senior Condominium Specialist Gina Watumull, Condominium Specialist Cheryl Leong, Condominium Specialist Gordon Arakaki, Condominium Recodification Attorney Shari Wong, Deputy Attorney General Irene Kotaka, Secretary
	Mary P. Lobo Francis G. Hutchinson Bruce Bowman Brett Hitzeman
Excused:	Alfredo Evangelista, Member
Unexcused:	Casey Choi, Public Member
Call to Order:	The Vice Chair called the meeting to order at 9:06 a.m., at which time quorum was established.

Executive Officer's Report:

Announcements, Introductions, Correspondence and Additional Distribution

Announcements

The SEO reported that on November 1, 2001, Diane Choy Fujimura will be joining the Commission staff as the Senior Real Estate Specialist. The Real Estate Education Fund and the PVL Special Fund finance this position. In addition to her duties as the Senior Real Estate Specialist, she will also be assisting on PVL projects.

The SEO also reported that the Department's proposed fee moratorium request has been deferred. There are currently no budgetary restrictions on our programs. However, in the future travel may be restricted or hiring may be frozen if the economic situation worsens.

The SEO reported that the Commission received information from ARELLO that they were planning to meet with officials of the National Association of REALTORS' ("NAR") during the upcoming NAR Conference. Commissioner P. Choi is unable to attend this meeting as she will not be attending the NAR Conference. Had she been able to attend the Conference, she would have attended the meeting. Commissioner P. Choi suggested that former Commissioner Barbara Dew be asked to attend in her place. The Commission strongly feels that interaction at the NAR Conferences is invaluable.

Commissioner Ching stated that he felt that the Commission should try to participate in this joint meeting, as the goals of both organizations are similar. He also stated that it would be good to have interaction with NAR because they are also concerned about consumer-oriented issues.

The SEO reported that the ARELLO/NAR Licensee Database has reached a milestone. There are currently one million files in the database.

Additional Distribution

6.

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

- 3. Executive Officer's Report
 - b. Minutes of Previous Meetings
 - Licensing Questionable Applications
 - b. Francis G. Hutchinson

Minutes of Previous Meetings

Upon a motion by Commissioner Imanaka, seconded by Commissioner Aki, it was voted on and unanimously carried to approve the minutes of the September 28, 2001 Real Estate Commission meeting as circulated.

No Chair's report was submitted.

Chair's Report:

<u>Committee</u> Reports:	Laws	Laws and Rules Review Committee		
	Imana	a motion by Commissioner Okawa, seconded by Commissioner ka, it was voted on and unanimously carried to accept the report of ctober 10, 2001 Laws and Rules Review Committee meeting as s:		
	1.	Minutes of Previous Meetings – Accept the minutes of the August 6, 2001 and September 12, 2001 meetings.		
	2.	Accept the proposed dates submitted subject to confirmation of room availability.		
	3.	Program of Work, FY02		
		a. Neighbor Island Outreach – The next neighbor island outreach is scheduled for January 4, 2002, on the island of Maui. REB staff to contact the Maui Board of REALTORS to request their assistance in obtaining a room for the meetings.		
		 b. Division and Department Programs – RICO Real Estate Advisory Committee – Recommend approval of the Real Estate Advisory Committee list. The Commission will also submit recommendations for Kauai members at a later date. 		
	4.	ARELLO, Other Organizations and Jurisdictions – Recommend acceptance of the ARELLO Western District Conference Report, as submitted by the SEO.		
	5.	Budget and Finance Report – Real Estate Recovery Fund – Recommend acceptance of the financial summary of the Real Estate Recovery Fund, dated June 28, 2001.		
	6.	Next Meeting: Wednesday, November 14, 2001 9:00 a.m. Kapuaiwa Room HRH Princess Victoria Kamamalu Building 1010 Richards Street, Second Floor Honolulu, Hawaii		
	Educa	ation Review Committee		
	it was	a motion by Commissioner Aki, seconded by Commissioner Rice, voted on and unanimously carried to accept the report of the		

October 10, 2001 Education Review Committee meeting as follows:

- 1. Minutes of August 6, 2001 – Accept.
- Continuing Education Administration, Curriculum, Courses, 2. Providers, and Instructors
 - Applications a.
 - 1)
- Course "Understanding Contracts Part II," Author/Owner: Abe Lee, Provider: Abe Lee Seminars, Course Category: Contracts, Course Clock Hours: 3 – Recommend approval.

- Course "Understanding Contracts Part III," Author/Owner: Abe Lee, Provider: Abe Lee Seminars, Course Category: Contracts, Course Clock Hours: 3 – Recommend approval.
- Course "Federal Laws that Affect Licensees," Author/Owner: Eddie Flores, Jr., Provider: Eddie Flores Real Estate Continuing Education, Course Category: Risk Management, Course Clock Hours: 3 – Recommend approval.
- Course "Hot Real Estate Issues 2001/02," Author/Owner: Eddie Flores, Jr., Provider: Eddie Flores Real Estate Continuing Education, Course Category: Risk Management, Course Clock Hours: 3 – Recommend approval.
- 5) Course "Residential and Commercial Evictions," Author/Owner: Eddie Flores, Jr., Provider: Eddie Flores Real Estate Continuing Education, Course Category: Property Management, Course Clock Hours: 3 – **Recommend approval**.
- 6) Provider "Thomas J. Douma" (Administrator: Thomas J. Douma) – **Recommend approval**.
- Course "ASHI Standards," Author/Owner: Thomas J. Douma, Provider: Thomas J. Douma (pending), Course Category: Risk Management, Course Clock Hours: 3 – Recommend approval.
- 8) Course "Red Flags in Construction," Author/Owner: Thomas J. Douma, Provider: Thomas J. Douma (pending), Course Category: Risk Management, Course Clock Hours: 3 – **Recommend denial** of "Red Flags in Construction" as the course does not meet the requirements of §§16-99-101(1) and (7), Hawaii Administrative Rules.
- 9) Course "Risk Management," Author/Owner: Dearborn Real Estate Education, Provider: Dower School of Real Estate, Course Category: Risk Management, Course Clock Hours: 3 – Recommend approval effective October 10, 2001 and subject to ratification at the October 30, 2001 Real Estate Commission meeting.
- Course "Diversity and Doing Business," Author/Owner: Dearborn Real Estate Education, Provider: Dower School of Real Estate, Course Category: Other – Diversity and Doing Business, Course Clock Hours: 3 – Recommend approval effective October 10, 2001 and subject to ratification at the October 30, 2001 Real Estate Commission meeting
- b. Continuing Education 2001-02 Core Course Evaluation **Accept** for the record.

- c. Elective Courses Evaluation Accept for the record.
- Request for Equivalency to Continuing Education Elective (Licensee: Jane F. Abramo, Course: "Keys to Success in a Real Estate Transaction in Hawaii") – **Recommend denial** of request for equivalency to the continuing education elective course by licensee Jane F. Abramo as the requested course does not meet the requirements of §§16-99-87 and 100(a)(9), Hawaii Administrative Rules.
- e. Recommendations on Continuing Education Gretchen Duplanty Staff to respond.
- Prelicensing Education Administration, Curriculum, Schools, Instructors, and Equivalency – Applications – Instructor – Wayne Richardson, III (salesperson and broker curriculums; substitute instructor; salesperson and broker curriculums) – Recommend approval subject to applicant attending the next Commission approved Instructor's Development Workshop.
- 4. Administration of Examinations ASI Defer until Staff is able to gather further information/statistics and also meet with Ho Mun of ASI.
- 5. Program of Work, FY02 Evaluation and Education System for CE and Prelicensing Instructors **Accept** for the record.
- 6. Budget and Finance Report REEF Accept.
- 7. Next Meeting: Wednesday, November 14, 2001

10:00 a.m. Kapuaiwa Room HRH Princess Victoria Kamamalu Building 1010 Richards Street, Second Floor Honolulu, Hawaii

Condominium Review Committee

Upon a motion by Commissioner Imanaka, seconded by Commissioner P. Choi, it was voted on and unanimously carried to accept the report of the October 10, 2001 Condominium Review Committee meeting as follows:

- 1. Minutes of August 6, 2001 **Accept** with correction to typographical error on page 5.
- 2. Condominium Governance and Management
 - AOAO Registrations, 2001 2003 Biennium Registration, August 2001, September 2001 –
 Recommend approval to ratify effective dates for AOAO registrations received for the 2001-2003 biennium through August 31, 2001 and September 30, 2001.
 - b. Proposed Legislation Representative Willie Espero -- **Recommend** to encourage Representative Espero to meet with the Condominium Review Committee with any proposed condominium legislation; including mediation,

managing agent fees, attorney's fees, and approval of bylaw amendments.

- 3. CPR Registration, Developer's Public Reports
 - August 2001, September 2001 Recommend approval to ratify issuance of effective dates of the developer's public reports and extensions issued for the months of August 2001 and September 2001, except recommend approval to defer to the October 30, 2001 Real Estate Commission meeting, ratification of effective dates of developer's public reports and extensions for CPR # 4670, 2100 Kalakaua Avenue, and CPR # 4722, The Peninsula At Hawaii Kai.
 - Request for Informal Non-Binding Opinion §514A– 107(b), HRS - Rosalinda Carter -- Recommend approval to issue an informal non binding opinion that the circumstances described by Ms. Carter in her letter of August 9, 2001 appear to fall within §514A–107(b) (1), HRS; and further recommend approval to issue a no action letter subject to Ms. Carter's submission to the Commission of the following:
 - Verification of serious illness/medical condition from a licensed medical doctor;
 - Supporting documentation from Gentry Hawaii indicating agreement to allowing the resale of the condominium before the expiration of 365 days.
 - c. Interactive Participation with Organizations CAI May 2001 Meeting Report Acknowledge receipt of report.
- 4. Budget and Finance Report **Recommend acceptance** of the unaudited Financial Summary report dated June 28, 2001 (rev 7/29/01,7/31/01).
- 5. Next Meeting: Wednesday, November 14, 2001 Kapuaiwa Room HRH Princess Victoria Kamamalu Building 1010 Richards Street, Second Floor Honolulu, Hawaii

Ratification of Issuance of Effective Dates for Public Reports for the month of September 2001

Commissioner Imanaka recused himself from the meeting.

Upon a motion by Commissioner Rice, seconded by Commissioner Okawa, it was voted on and unanimously carried to accept the ratification of the following effective dates for public reports issued for the month of September 2001:

4670, 2100 Kalakaua Avenue, 2100 Kalakaua Ave, Honolulu, HI 96815, (1)2-06-018:010 Prelim, 09/04/01

4722, Peninsula at Hawaii Kai The – Project, 7105 Wailua St, Honolulu, HI 96825, (1)3-09-008:016, Cont Fin, 09/25/01

Commissioner Imanaka returned to the meeting.

Upon a motion by Commissioner Aki, seconded by Commissioner Rice, Licensing and it was voted on and unanimously carried to ratify the attached list. Registration -Ratification: Licensing -The applicants were asked if they wished to have their applications considered in executive session. Francis G. Hutchinson requested that Questionable his application be considered in executive session. Mary P. Lobo, Bruce Applications: Bowman and Brett Hitzeman declined executive session. Upon a motion by Commissioner Ohama, seconded by Commissioner Executive Aki, it was voted on and unanimously carried to enter into executive Session: session, pursuant to Section 92-5(a)(1), HRS, "To consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in section 26-9 or both:". Upon a motion by Commissioner Ohama, seconded by Commissioner Rice, it was voted on and unanimously carried to move out of executive session. Licensing -Francis G. Hutchinson Questionable Applications: Upon a motion by Commissioner Rice, seconded by Commissioner Okawa, it was voted on and unanimously carried to take this matter under advisement. Mary P. Lobo Mary P. Lobo stated that her husband passed away in July 1998. She stated that her husband had founded the church and was the pastor there. Following her husband's death, she was the pastor. The church was supposed to be handling the financial issues involving her husband's medical expenses. The church experienced a turnover in its volunteer staff and had not followed through with the payment of their bills. The church is now growing and is bouncing back. The church takes responsibility for the bills and will take care of the repayment. Commissioner Okawa noted for the record the letter from the church. She asked also if there were any written communication between Kapiolani Medical Center and the church. Ms. Lobo answered that she was not sure. She also stated that there is a different administration at the church now. She is pretty sure that contact has been made, but she cannot say for certain.

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

Bruce Bowman

Bruce Bowman stated that he is involved in a lawsuit with Terminix. He worked for them for nine years and had signed an agreement that contained a non-compete clause. All employees of the company had to sign the agreement. Mr. Bowman stated that he felt that Terminix was breaking the laws under Chapter 436B, HRS. Mr. Bowman stated that he was the Responsible Managing Employee with Terminix. He had confronted the people managing Terminix about their non-compliance with the laws, but nothing was resolved. He left the company and started his own company. As a result, Terminix filed a suit against him for the non-compete clause.

Commissioner Ohama asked if, at the time of his employment with Terminix, he had voluntarily signed the non-complete clause. Mr. Bowman stated that he had signed an agreement, but he was not aware of signing the non-complete clause until the day that he submitted his resignation. Mr. Bowman stated that it seems unfair for the company to require its employees to sign the non-compete clause.

Mr. Bowman stated that if you were a real estate licensee who worked for a national company, it would be unfair to require the licensee to sign a non-compete clause. The company is forcing its employees to sign the non-compete clause. If the individual refuses to sign, they are not employed. Terminix purchased several companies in Hawaii and forced them to sign the non-compete clause. If any employee wanted to work for any other company, they would be forced to sign the agreement.

The Vice Chair informed Mr. Bowman that licensees must notify the Commission of any lawsuits that were filed within 30 days.

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

Bruce Hitzeman

Mr. Hitzeman informed the Commission that the lawyer for the company offered to drop all of the lawsuits last week. They have a confidential agreement with him. Mr. Hitzeman stated that the Commission could call the attorney to verify that the lawsuit is being dropped.

The Vice Chair asked Mr. Hitzeman if he could submit a letter from the attorney verifying that the lawsuit is being dropped. The letter is to be submitted to staff.

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

<u>Chapter 91, HRS,</u> <u>Adjudicatory</u> <u>Matters:</u>	The Chair called for a recess from the meeting at 9:41 a.m., to discuss and deliberate on the following adjudicatory matters, pursuant to Chapter 91, HRS:
	In the Matter of the Real Estate Broker's License of Big Island Hawaii Realty, Inc., dba Century 21 Big Island and Real Estate Salesperson's Licenses of James Beckett, Jr. and Sandra M. Takeya, REC 96-101-L
	Upon a motion by Commissioner Imanaka, seconded by Commissioner Okawa, it was voted on and unanimously carried to accept the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Commission's Final Order.
	In the Matter of the Real Estate Broker's License of Karen N. W. Meyer dba Kam Realty, REC-2000-1420L
	Upon a motion by Commissioner Okawa, seconded by Commissioner Rice, it was voted on and unanimously carried to accept the Settlement Agreement After Filing of Petition for Disciplinary Action and Commission's Final Order.
	In the Matter of the Real Estate Salesperson's License of Hugh M. Howell, REC 2000-136-L
	Upon a motion by Commissioner Ohama, seconded by Commissioner P. Choi, it was voted on and unanimously carried to defer decision making to the November 30, 2001 Real Estate Commission and to request the appearance of the Hearings Officer.
	Following the Commission's review, deliberation and decisions in these matters, pursuant to Chapter 91, HRS, the Chair announced that the Commission was reconvening its scheduled Commission meeting at 9:53 a.m.
Commissioner Ohama was exc	used from the meeting.
<u>Executive</u> <u>Session:</u>	Upon a motion by Commissioner Rice, seconded by Commissioner P. Choi, it was voted on and unanimously carried to enter into executive session, pursuant to Section 92-5(a)(1), HRS, "To consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in section 26-9 or both;".
	Upon a motion by Commissioner Okawa, seconded by Commissioner Aki, it was voted on and unanimously carried to move out of executive session.
<u>Licensing –</u> Questionable	Carol M. Lau
Applications:	After a review of the information submitted by the applicant, Commissioner Okawa moved to deny Carol Lau's request to accept her passing State examination score, pursuant to §469-9.5, HRS, and §16-

99-36, HAR. Commissioner P. Choi seconded the motion. The motion was voted on and unanimously carried.

Francis G. Hutchinson

After a review of the information presented by the applicant, Commissioner Aki moved to approve the restoration of Francis G. Hutchinson's real estate salesperson's license, that this matter be referred to RICO and request that RICO handle this matter expeditiously. Commissioner Okawa seconded the motion. The motion was voted on and unanimously carried.

Bruce Bowman

After a review of the information presented by the applicant, Commissioner Imanaka moved to approve the real estate salesperson's license of Bruce Bowman. Commissioner Okawa seconded the motion. The motion was voted on and unanimously carried.

Shauna K. Tate Fields

After a review of the information submitted by the applicant, Commissioner Okawa moved to approve the real estate salesperson's license application of Shauna K. Tate Fields. Commissioner Aki seconded the motion. The motion was voted on and unanimously carried.

Brett K. Hitzeman

After a review of the information presented by the applicant, Commissioner P. Choi moved to approve the real estate salesperson's license of Brett K. Hitzeman. Commissioner Okawa seconded the motion. The motion was voted on and unanimously carried.

Mary P. Lobo

After a review of the information presented by the applicant, Commissioner Okawa moved to approve the real estate salesperson's license application of Mary P. Lobo. Commissioner P. Choi seconded the motion. The motion was voted on and unanimously carried.

Next Meeting:

Friday, November 30, 2001 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 Vice Chair adjourned the meeting at 10:17 a.m.

Reviewed and approved by:

<u>/s/ Alan Taniguchi</u> Alan Taniguchi Executive Officer

November 30, 2001 Date

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

APPROVED APPLICATIONS FOR REAL ESTATE REAL ESTATE COMMISSION MEETING ON OCTOBER 30, 2001

<u>Brokers – Corporations and Partnerships</u> Hamman Realty, Inc., Hamman Realty Hawaii Steve Hamman, PB	Effective Date 09/10/01
Same Moore Realty, Inc. Samuel A. Moore, PB	09/17/01
Bluegreen Resorts Management, Inc. Philip J. Leas, PB	09/13/01
JF Realty Inc. James I. Fernandez, Jr., PB	09/14/01
LU-AL Inc., Livingston Realty H. Alan Livingston, PB	09/09/01
Evergreen Realty and Development Inc. John K. Tse, PB	10/12/01
Brokers – Limited Liability Companies and Partnerships Realty Group International, LLC Andrea Lehman, PB	Effective Date 09/21/01
Kupono Realty, LLC Anne Agor, PB	09/26/01
Kona Akamai Realty, LLC Reese Libby, PB	10/02/01
Keese Libby, FB Kona Commercial Property Management, LLC Jay T. Coskie, PB	10/03/01
Commonwealth Partners Management Services, LP John O. Coppedge, Jr., PB	10/16/01
BOB4YOU LLC, AllQuest Real Estate Patrick L. McLane, PB	10/16/01
Brokers - Sole Proprietor Glenn M. Adachi, Pure Management Bruce E. Sutherland, Sutherland Realty Mark C. Johnson Scot J. Voronaeff, Premiere Properties Carolyn I. Darr Jim Elliott Babianna K. L. Chu	Effective Date 09/18/01 09/21/01 09/24/01 09/26/01 09/18/01 09/24/01 09/26/01
Equivalency to Uniform Section of Examination Certificate Samantha Kurz Gary James Mooers Roger Frank Elgram Doni C. Rankin Francisco Jose Pinto Julie Ann Sousa Pinto Christine G. Holden Nelson B. Guyer Charles Sterling Denis L. Mullen Diana Lynne Woehrman	Expiration Date 10/02/03 10/02/03 10/02/03 10/03/03 10/03/03 10/03/03 10/03/03 10/03/03 10/03/03 10/04/03 10/04/03

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Equivalency to Uniform Section of Examination Certificate	Expiration Date
Philip Lenard Astrella	10/04/03
Mark Michael Kearns	10/04/03
Dylan J. Thede	10/12/03
William A. Meyer	10/12/03
John R. Dunning	10/12/03
Thomas E. Atkins	10/12/03
Educational Equivalency Certificate	Expiration Date
Victor Wong	09/24/03
Sara Elizabeth Flinn	09/24/03
Jean Elizabeth Vance	09/26/03
Gary James Mooers	10/02/03
Tod Clayton Posselt	10/02/03
Samantha Kurz	10/02/03
Roger F. Elgram	10/02/03
Royce Takenaka Tomson	10/02/03
Doni C. Rankin	10/03/03
Francisco Jose Pinto	10/03/03
Julie Ann Sousa Pinto	10/03/03
Christine G. Holden	10/03/03
Charles Sterling	10/03/03
Denis L. Mullen	10/04/03
Diana Lynne Woehrman	10/04/03
Philip Lenard Astrella	10/04/03
Mark Michael Kearns	10/04/03
Dylan J. Thede	10/12/03
William A. Meyer	10/12/03
Thomas E. Atkins	10/12/03
Christine J. Chagnon	10/12/03
Charles K. Djou	10/12/03
Miguel Angel Montano	10/12/03
John R. Dunning	10/12/03
Real Estate Broker Experience Certificate	Expiration Date
Donna Edith Rice	09/24/03
Curtis M. Miyahara	09/24/03
Carol K. Lam	09/26/03
Glenn H. Takeuchi	09/26/03
Rosanne Malta	10/02/03
Dawn C. Kane	10/02/03
Arlene K. Kim	10/02/03
De'an F. Flud	10/03/03
Denise J. Smith	10/03/03
Maureen Fukumoto	10/03/03
Basil H. Takeda	10/12/03
Tad T. Yomono	10/12/03
Kathleen K. Takemoto	10/12/03
Melisa G. Preus	10/12/03
Patrick G. W. Young	10/12/03
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<u>Real Estate Broker Experience Certificate</u>	Expiration Date
Laurene H. Young	10/12/03
Audrey J. Moniz	10/17/03
Mary M. Reed	10/17/03
Real Estate Broker (upgrade)	Effective Date
Barbara Noel	09/10/01
Warren K. Dote	09/11/01
Ash Tawfik	09/14/01
Lisa A. Foster	09/17/01
Graham C. Peake	09/17/01
<u>Real Estate Broker (upgrade)</u>	Effective Date
Mark C. Johnson	09/24/01
Steven M. Molmen	09/21/01
Scot J. Voronaeff	09/26/01
M. JoAnn Yee	10/02/01
Katherine S. Wong	10/09/01
Carl D. Gillum	10/03/01
Rebecca L. Inouye	10/12/01
Restoration – Real Estate Broker	Effective Date
James S. Ikehara	09/20/01
Naomi Saito	09/24/01
Restoration – Real Estate Salesperson	Effective Date
Hidejiro L. Eustace	09/07/01
Rhonda L. Thompson	09/26/01
<u>Condominium Managing Agent</u>	Effective Date
Bluegreen Resorts Management, Inc.	09/13/01